

# **GENERAL LAWS**

(AND JOINT RESOLUTIONS)

OF THE

## **LEGISLATURE OF ALABAMA**

**PASSED AT THE**

**SESSION OF 1935**

**HELD AT THE CAPITOL, IN THE CITY OF MONTGOMERY**

**Commencing Tuesday, January 8, 1935**



**BIBB GRAVES, Governor.**

**THOMAS E. KNIGHT, JR., Lieutenant-Governor.**

**D. HARDY RIDDLE, President Pro Tem. of the Senate.**

**R. H. WALKER, Speaker of the House.**

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I, Howell Turner, Secretary of State in and for the State of Alabama, do hereby certify that this volume is published by the authority of the State of Alabama, and in accordance with law.

**HOWELL TURNER,**  
Secretary of State.

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## MESSAGE OF THE GOVERNOR

*To The Senate And House Of Representatives of Alabama:*

Gentlemen:

Your body is composed of some members of the former legislature and many are here for their first session. To each of you we extend a hearty welcome. You are the great law making body of a great people of a great State; and it is a great honor. You will reflect great credit and lasting benefits to your constituents.

Senators and Representatives permit me to digress for a minute.

Radio Listeners, Friends and Citizens of Alabama:

The pleasure of addressing you at the same time we speak to the General Assembly of Alabama is due to the kind thoughtfulness and generosity of the Radio Stations WSFA of Montgomery, WAPI, WBRC, WSGN of Birmingham and WALA of Mobile. Great appreciation for this privilege is hereby extended to them.

In 1915 the undemocratic principle of a possible minority rule in party nominations with a single primary and a second choice vote, if desired, was written into the statutes of Alabama. It permitted a plurality vote to make the nomination. It was possible, yes probable, for one-fourth or one-fifth or less of participants in the primary to name the nominee, if there were many candidates in the race.

From 1915 to 1931 the Legislature of the State failed to follow the fundamental principle of majority rule in primaries and government, which was declared years ago by the father of democracy—Thomas Jefferson, who wrote:

“Every man and every body of men on earth possess the right of self-governments. They receive it with their being from the hand of nature. Individuals exercise it by their single will, collections of men by that of their majority; for the law of the majority is the natural law of every society of men.”

“Absolute acquiescence in the will of the majority is the life-blood of the Republic.”

#### IV.

The people of Alabama by their votes on the 12th of August 1930 and again on the second Tuesday in November 1930 declared for restoration in party and in government for the return to the fundamental principle of majority rule in party primaries and governmental control thereof.

So the single primary, with second choice vote permissible, to make nominations, was abolished in Alabama and majority rule by double primary was restored to the citizens of this State by the Legislature.

Majority rule was written by the Legislature in 1931 into a passed bill, which ripened into an Act and was recorded in the statute of Alabama on the 25th of February 1931.

This is a lasting memorial to them.

The principle of majority rule as declared by Thomas Jefferson should live and govern us in party primaries and actions forever.

The 1931 Legislature created a Jury Board composed of three members in each County, each to be a man reputed for his fairness, impartiality, integrity and good judgment. The design of the act was to secure a fair and impartial jury for the trial of any person charged with a criminal offense, as guaranteed by the Constitution of Alabama. It was enacted to make safe and secure this constitutional right through a jury box for all of our citizens and not for any organized class or clique.

The wisdom of this statute reflects credit on the late Legislature, which has just preceded you.

The Legislature on January 30, 1931, directed by an Act that a detailed study and survey be made of all departments, boards, commissions, institutions and agencies of the State of Alabama. They appropriated for this purpose the sum of Thirty Thousand Dollars. The Brookings Institution of Washington, D. C. was secured to do the work. They have an international reputation in this line. Their survey of this State government was thorough. It was reported and published in five volumes. They were paid \$20,000.00; the cost of printing was \$6,000.00; the cost of distributing them over Alabama was \$331.44; thus making the total cost \$26,931.44. It was money well spent as directed by the Legislature.

## V.

Their recommendations make in many respects an ideal government. Of course no one will endorse all of their ideas. The contents of these five volumes, if studied, will grow more and more valuable as time goes on and many of their suggestions will ripen into statutes and make our government more economical and more efficient. If you have no copy of this report of the Brookings Institution on Alabama, you should secure one and study it.

Some day that Legislature will look back with pride on that Act which placed in Alabama this report of the Brookings Institution, showing many splendid principles of government to guide and direct us in Alabama.

In the beginning of 1931 the State Tax Commission was composed of five persons, the State Highway Commission was composed of three persons and the State Board of Administration was composed of two persons.

These three Departments of State had ten heads—five in one, three in one and two in one. Some were drawing enormous salaries, and the others large salaries.

The Legislature prompted by economic and efficiency principles abolished seven of these ten officials and placed one head in each of the three departments by acts of the Legislature in January 1931.

This was wise legislation. It saved annually Thousands of Dollars to the taxpayers. It placed the responsibility undivided on one person. The workings of the departments were harmonious. There were no divisions and no discords; and great results were accomplished in each department as will appear to you from their written, printed reports, which will be placed on your desks.

These numerous offices in each department were created years ago so political friends, could secure political plums, with juicy and sweet salaries, at the expense of the taxpayers to reward political friends. That time has passed in Alabama. May it never return. Alabama wants new economy in government. Alabama wants efficiency in government. Alabama is against creating political plums for political friends, who will be barnacles on the ship of State. The taxpayers should have placed upon them no such salaries; and unnecessary offices should never be created at their expense for political friends or other purposes.

May you march forward and take no step backward in this line.

## VI.

There was passed and approved on the 30th of January 1931 an Act to determine the outstanding current debt of the State and require all unpaid warrants and accounts to be registered by the State Treasurer. The design of this statute was to ascertain the amount of the indebtedness of the State. Claims, accounts and warrants for Millions were filed with the Treasurer. It was practically impossible to examine them, find out their correctness and the amount thereof without a complete audit.

So the Legislature adopted an Act to have an audit made of all departments, offices and institutions of the State government by authority of the Governor of Alabama. The appropriation therefor was \$40,000.00. Loomis, Suffern and Fernald, certified public accountants were employed to do the work. They completed their work and were paid therefor the sum of \$8,000.00. The cost of printing it was \$1,314.60 and the expense of distributing them through Alabama was \$171.75. Thus making the total cost \$9,-486.35. This report made by them was clear and comprehensive.

The report of State Examiner of Accounts, Hon. Walter K. Smith, made to me on the 8th day of June 1931, showed that the current debts of the State including the appropriations to be paid October 1st, 1931, would be on that date, the sum of \$19,053,336.80.

This report of the State Examiner was clear, convincing and certain that Alabama's appropriations exceeded largely her income; that Alabama was going deeper in debt daily; that she had no balancing budget; and it was evident to me that a balancing budget should be adopted at once.

So the next day, June 9, 1931, a report of the findings and conclusions of Chief-Examiner Smith was filed with my message to the Legislature which was then in its first regular session. The message was written and read to the Legislature. On this subject it was written and orally urged as follows to them:

"These appropriations should not exceed the annual available revenue."

"The amount of the current liability of the State is much larger than was expected."

"The total current debts of State on October 1, 1931, will be \$19,-053,336.80."

## VII.

"Alabama should live within her income. The annual appropriations for all purposes should never exceed the yearly income to the State from all sources. When the appropriations exceed the income there is danger ahead."

Then they were earnestly urged in that written message on June 9, 1931, as follows:

"Fifth, to pass a bill to permit the appropriations, except as to fixed salaries and elementary schools, to be reduced pro rata any year they exceed in amount the income; so that the State will live within and not exceed its income."

A bill was prepared at once and introduced in the Legislature to require Alabama to live within her income. Run on a cash basis. Balance the budget. Spend no more than is received annually. Permit no appropriation unpaid to be carried over to the next year. Reduce at the end of each year appropriations pro rata to meet and balance the income for that year.

These principles were embodied in the bill. The bill reached a committee. They claimed "it gave too much power to the Governor; and took too much power from the Legislature." So this Budget Bill was chloroformed, went soundly to sleep in the Committee. The Legislature adjourned without waking it.

The new and correct principle of financing a State Government to annually reduce pro rata the appropriations to balance the annual revenue was ignored, killed in the Committee; and the old and impractical theory of government to raise the revenue to the appropriations was continued.

Experience teaches that the appropriations always exceed the revenue; and under the old theory of government debts thereby accumulate. This was Alabama's experience. It was the way Alabama's debts were largely created.

The revenues for years and years from taxation were insufficient to pay in full the appropriations. So thus the deficits from year to year gradually grew, increased and accumulated until the debts reached the amount mentioned.

Warrants were drawn on the State Treasury for the amount of the appropriations regardless of whether there was or ever would

## VIII.

be any money therein to pay them. Such business principles and practices necessarily produced debts and deficits.

The regular session of the Legislature closed, ended, and the budget balancing bill, introduced and urged, was dead.

Months afterwards, Hon. Shelby S. Fletcher, State Senator of Huntsville, a member of the present and past Senate of Alabama, called in my office to see me. We talked freely of the financial condition of Alabama; that Alabama's appropriations exceeded its revenue; and with no budget system forcing reduction of appropriations, living within the income was impossible. A special session of the Legislature was imperative, to pass a budget bill which the regular session refused to consider.

This business man, with financial vision, grasped the idea and saw the situation. He consented to help us. An expert from the Brookings Institution was employed to draw the budget balancing bill; an expert from North Carolina in operating such measures, was employed to aid the Comptroller in putting it into practical operation. Senator Fletcher at his own expense was present with us and the experts. He studied and understood the bill. As Senators and Representatives were seen the ideas and plans were explained to them. A special session of the Legislature was called. Senator Fletcher introduced and urged this budget bill. It passed by a large majority and was placed in the statutes of Alabama on the 27th day of September, 1932.

Under this statute Alabama balanced her budget. She lived within her income from September 30, 1932 to September 30, 1933, and from September 30, 1933 to September 30, 1934—two fiscal years. She should continue and must continue to do so under it forever.

The Supreme Court of Alabama in an opinion intimated that the current debt mentioned herein, which had accumulated for years by appropriations exceeding annually the revenues, was probably unconstitutional and void.

A large majority of the Legislature was determined to pay these honest debts, due teachers, Colleges, and creditors of Alabama for services rendered. They were determined that it should be paid by an income tax and they were determined that the principles of the budget system should be written into the Constitution of Alabama.

## IX.

So they introduced and submitted to the voters on the 8th day of November, 1932, amendments to the Constitution embodying these principles.

The voters on the 8th day of November, 1932, repudiated the payment of these bona fide claims on Alabama, refused to insert an amendment for an income tax in the Constitution of Alabama to pay them and refused to write the principles of the budget system into the Constitution of Alabama by a majority vote of about 71,000.

A large majority of the members of the Senate and House were strong willed and determined men. They were thoroughly convinced now that these principles of government were sound, that Alabama needed them, and the future welfare of the State demanded that they should be written into the organic law of Alabama.

So another Extra Session of the Legislature was necessary. It was called for the 31st day of January 1933.

They met and submitted again these principles in proposed amendments to the Constitution of Alabama to be voted on by the people on the 18th of July 1933.

Members of the Senate and House were divided on the subjects. Some favored and others opposed them. Some advocated their adoption before the public on the stump with vim and vigor and with clear statement of facts and other members as vigorously opposed publicly their adoption.

The voters on the 18th day of July 1933 about faced on the questions. They reversed their position. By their votes when counted they registered 37,313 majority in favor of the amendments instead of the 71,000 majority recorded against them on the 8th of November 1932.

The large majority of the Senate and House of Representatives who were strong willed, persistent and determined in their belief won the victory before the people.

Alabama is proud of the Legislature of 1931.

Alabama is proud of the vote of her people on July 18th, 1933.

## X.

The legislators are real men—statesmen. The adoption of the budget system, placing it and the other principles of debt paying and income taxation into the Constitution, will live to reflect credit and honor on them forever in the history of legislation in Alabama.

As a result of their thought, action and labors Alabama has lived within her income since September 30, 1932.

Alabama can live within her income.

Alabama is living within her income.

Alabama must continue to live within her income.

These principles of government should have been written into the statutes and Constitution of Alabama half a century ago.

This presents to you a slight review of the great and continuous struggle which was necessary to accomplish these results. It was worth the time, the effort and the struggle of the Legislature.

You can make this Legislature famous. You can make real worth while history and lasting good to Alabama. You can make Alabama proud too of you. You can make great reforms and great economy in Alabama without the great effort and struggle of the former Legislature. The public is educated now on the benefits of the budget balancing system. It should be made applicable to every State agency, University, College, Normal School, Board of Education, Board of Trustees, County Board of Education, all municipalities and every county in the State. Each should live within its annual income. Not one should be allowed to spend more annually than it receives. The budget system should apply to each of them; not one should escape. This will end debt creating beyond debt paying ability in Alabama. You can do it. You can pass such statutes and make violators of them criminally responsible for their non-observance.

If you do, you will be greatly praised in Alabama.

If you do, Alabama will be proud of you.

If you do Alabama's history will name you as true men and statesmen.



## XI.

May God give you the courage and determination to do it.

The result of this Budget balancing system in Alabama shows on the 31st day of December, 1934, \$5,516,182.45 cash in treasury. There are warrants drawn thereon aggregating \$637,577.30 which leaves a net balance in cash, January 1, 1935 of \$4,878,605.15 and no current debts except the temporary loan of \$100,000.00 due January 8, 1935 and ordinary current purchases. This will more fully appear from the letter of the Comptroller, Mr. Hard, hereto attached.

The present exact net cash now in treasury will be given you in a few days.

This money should be spent wisely and carefully; for it must be used with additional amounts that will be collected from time to time to pay the expenses of the State until October 1, 1935.

Remember there are leaner months ahead of you in 1935.

Mr. Butler—the State Tax Commissioner writes:

“It is my opinion that the amount of Income Tax that will be collected in Alabama during 1934 will exceed \$500,000.00.”

“Based on increased business reflected by the fiscal year returns being received, a conservative estimate of the net cash collections for the next fiscal year should be placed at \$750,000.00.”

This expected amount from the Income Tax will pay practically the interest on the warrant refunding bond debt and relieve the General fund of the State from paying any part thereof.

When real prosperity returns, the income tax will pay the interest on these bonds and retire annually a part of the principal as was intended and expected by this tax.

The Convict Department, known officially as the State Board of Administration, with one head at the helm has made a remarkable record for efficiency and economy during each year of this administration. This year its record culminated in paying all of the expenses of the department, making no debts to be paid from the general tax fund of the State. This department was self-sustaining. A copy of its annual report will be placed on your desk.

## XII.

During this administration beginning January 19, 1931, to and including this time, there have been permanently paroled, pending their good behavior, 5,228, convicts. There has been revoked of this number only 182; out of 5,228 only 182 have been reported to me, as violating their agreement to such an extent that their paroles had to be and were revoked. The letter of Mr. W. F. Covington, Jr., Recording Secretary, attached gives the facts and figures, in detail.

It is a remarkable reform for convicts. They were given a chance; 5,046 took advantage of it, and so far have made good; and only 182 disappointed us, breached their agreement and were returned for more penal punishment.

When this report of the number of convicts paroled and the number that failed to make good, was given to the public, a distinguished and experienced trial Judge with big brain and big heart wrote me as follows:

"If we are willing to count patiently the number of convicts paroled and the very few which go wrong, we will come to find that we have fed back into society a vast number of men and women who make good."

"I am constrained to believe that, when the shadows lengthen, and you come to check the work you have done for your State as its Chief Executive, that the paroles and pardons which you have issued will give you more genuine satisfaction than anything else you have done. It will stand out sweet and clean, like an April rain. You know the Master tried to buy us when He said: 'Blessed are the merciful, for they shall obtain mercy.'"

"I for one with a background of long experience, indorse heartily your position with reference to paroles for men and women serving in penal institutions of our State."

This principle of paroling convicts pending good behavior will be more successful when this department with continued, wise and economic leadership grows sufficiently strong financially to employ parole officials to assist the paroled convicts in receiving employment and to watch them and keep them constantly in mind with good counsel.

### XIII.

The Highway Department with "one man at the head" has shown his metal and made an enviable record of economy, efficiency and good works. The funds were scarce, but the money was spent wisely and economically in constructing and maintaining roads and not in paying enormous salaries to unnecessary heads of the department and unnecessary employees.

Prior to January 19, 1931 there were in Alabama constructed 523 miles of concrete paved roads and 450 miles of bituminous paved roads; total miles 973 of paved roads.

Since January 19, 1931 there has been completed, or under contract or allotted to date 519 miles of concrete pavement, 564 miles of bituminous pavement, making the total miles of 1,083 of paved roads. More miles of paved roads have been constructed in Alabama during this administration than under all former administrations.

There are now 2,056 miles of paved roads in Alabama.

These roads constructed during this administration have no bonded debts on them. They were constructed on the pay as you go plan, the cash system.

The Federal government assisted Alabama materially in making this fine showing. The total amount contributed by it to Alabama during this administration for road building was \$23,679,-044.79 for which we are thankfully grateful; and of this sum \$19,-994,026.23 have been spent in road construction and leaves remaining \$3,685,018.56 to be contracted or spent hereafter; as shown by letter of Highway Department hereto attached.

This Highway Department has not only paid for constructing and maintaining these roads, but it has paid the interest on all of the road bonded debts of Alabama and it has also paid promptly the principal of the road bonded debt of Alabama as it matured during this administration. And the Highway Department has placed in a sinking fund now in cash \$1,743,323.75 to pay the principal and interest on Highway bonds that mature on March 1st, 1935 and June 1st, 1935.

You can ride through Alabama from Tennessee to the Mobile Bay on paved roads built or under contract or construction. You can drive through Alabama on a paved road from Florida to Tennessee. You can drive from Georgia to Mississippi on a paved

#### XIV.

road finished or under contract or under allotment, with federal money ready to pay for it.

There are many other paved roads commenced running North and South and East and West, through different parts of Alabama which will be completed, connected up, in reasonable time by the incoming and future administrations.

There are eleven road camps in Alabama. There are now 1,500 convicts in these camps. They are used to construct and maintain public roads. There are from 80 to 240 in the different camps.

They are maintained and kept up jointly by the Highway Department and the Board of Administration which has charge and control of the convicts. Each department pays part of the cost. Some counties contribute to and pay a part of the cost from their gas fund. The convict farms should be used more and more to raise food for the convicts. The vicious convicts or confirmed criminal convicts should remain in prison and be used to make clothing for the convicts; and as many as possible of the better convicts should be located in camps in different counties of the State to work in maintaining and constructing public highways of the State. Counties should cooperate with the State and contribute an equitable amount from their gas fund to pay the expense of the camps and convicts.

These two departments are closely connected. The work of one runs into the work of the other. As time goes on more convicts from necessity will have to be placed in camps in the public road work. These camps should be permanently fixed. These eleven camps are doing excellent road work. It is practical, feasible and economical.

If these two departments were connected with one directing head, and that head had energy, economy and efficiency as its moving principles, great good could be accomplished and fine roads could be constructed and maintained all over Alabama with the counties contributing equitably to the State to pay the expense thereof.

The Federal Government has been liberal with Alabama. Practically all of Alabama's requests have been granted—with gifts—with no return expected.

## XV

As hereinbefore shown the amount contributed by it for road construction since January 19, 1931, to this date aggregates the sum of.....\$23,679,044.79

The letter and statement itemized by A. P. Morgan, Jr., Chief Accountant of Alabama Relief Administration hereto attached states the total amount received through December 19, 1934, and spent in Alabama by Civil Works Administration for general relief, education, handling cattle, Rural Rehabilitation, various special projects, value of Surplus Commodities and cattle shipped into and used in Alabama to be.....\$55,054,106.81

Total including amount for road construction.....\$78,733,151.60

This amount given to Alabama without any required matching exceeds the bonded debt of the State.

This does not include the multiplied millions spent and being spent by the Tennessee Valley Authority in North Alabama.

These numerous gifts to and investments in Alabama by the Federal Government during these distressing and strenuous times have proved a great blessing to our people. It has almost restored prosperity to Alabama.

There will be placed on your desks copies of the reports of the several departments of the State. They will give you the facts and figures showing its condition; the amount of money received and paid out; and the estimates of the amount of money to be raised by taxation for all purposes. These departments have lived within their income since the budget system was adopted. There has been great depression. It still exists in parts of Alabama. Economy in all departments of government was and is still necessary. No head of any department has resigned on account of these economies and reductions in salaries. A few employees have received better offers from without than the State could meet; and we lost them. However, the State is progressing with efficiency with those who filled their places. The State employees and officers have been loyal, cooperative and efficient. They have not loafed but were at work on their jobs.

The present revenue measures will raise sufficient funds, if economically administered, to defray the expenses of the government.

## XVI

The public school system in Alabama cost in cash for the fiscal year—Sept. 30, 1933 to Sept. 30, 1934, \$21,938,866.00.

The taxpayers of Ala. paid through the State of this sum .....	\$ 6,700,309.00
The taxpayers of the counties paid by county taxes .....	\$ 4,502,631.00
The taxpayers of Districts in the counties paid.....	\$ 4,794,148.00
The appropriations and others.....	\$ 927,018.00
Non-revenue receipts.....	\$ 792,921.00
Receipts from Federal Fund grant and gifts.....	\$ 4,221,839.00
Total receipts which make up above amount.....	\$21,938,866.00

These figures were furnished by the State Superintendent of Education. His statement itemized is attached.

This \$21,938,866.00 was allotted and spent as follows:

\$19,129,793.00 for Elementary and High Schools.

\$2,677,904.00 for Higher Institutions.

\$131,169.00 for Official Expense of State Department of Education.

When the federal government sees what the Legislature has done and what we are doing by taxation in Alabama, in the Counties, and Districts of the counties for schools, in my opinion, they will not force Alabama to levy more taxes for schools, but it will come to our assistance this year as last year and supplement our funds. This, the Federal Government should do.

The educational financial trouble in Alabama is not due to the State but grows out of the fact that some of the County, District, and City Boards of Education have anticipated and spent the County, District and City taxes for years before they were received. Beautiful buildings were erected on credit and the future taxes were pledged to meet annually the interest and principal on the building debts. When the County, District and City taxes are collected, in many instances they are applied to the payment of building and school bus debts and the teachers go unpaid on account thereof.

An annual budget balancing system with teeth in it and penalties attached should be made applicable to these county and city

## XVII

boards of education, just like it applies to the State of Alabama. When that is done you can expect business results from our Educational system and teachers will be paid their salaries.

Our Schools, Colleges and Universities are lowering the mental standard by too much enthusiasm for physical prowess.

The mind, manners and morals of students are being sacrificed by eagerness for physical success.

There should be a happy medium, moderation, before too excessive stage is reached.

Education is expensive now on parents as well as taxpayers and this should not be increased by too much diversion from books by excessive athletics in our Schools, Colleges and Universities.

The letter of the State Comptroller attached hereto shows that since January 19, 1931, there has been paid on principal of the State bonded debt \$4,528,000, and on the debt of the Alabama Bridge Corporation \$1,220,000.

There has been paid in interest on the State bonded debt \$11,675,798, and on the Alabama Bridge Corporation \$1,077,970; total interest paid \$12,753,768 since January 19, 1931.

These payments aggregate the enormous sum of \$18,501,768 since January 19, 1931. The full faith and credit of the State is pledged to the payment of the bonded debt and it has been necessary to practice the strictest economy to meet these payments promptly as they matured.

The Comptroller's letter further shows that the present State bonded debt is \$74,805,200 and that of the Alabama Bridge Corporation is \$3,780,000. Economy must be continued if these obligations are to be met and the integrity of the State maintained. The payment of interest requires a large part of the State revenue. Provision should be made to reduce the debt at the earliest time and the saving in interest used for the benefit of Education and other necessary governmental agencies. Certainly no new debts should be created and the budget system should be maintained and broadened to assure that the State will live within its income and meet its obligations promptly.

## XVIII

A near Beer Bill was passed by your predecessors. As a revenue raising measure it was a colossal failure. As a smoke screen to enable blind tigers to fool and frighten many officials so they could not tell the difference between Near Beer and real beer without a chemical analysis, it was a wonderful success.

It was highly satisfactory to blind tigers, beer drinkers, wine bibbers and liquor lovers.

It struck a heavy blow at the enforcement of the prohibition statutes.

It was the design of some to drive with it an entering wedge into prohibition so as to ultimately destroy its statutes, if possible.

It should never have been passed.

It should be repealed without delay.

Beer, wine and liquor were sold legally in Alabama in 1911, 1912, 1913 and 1914. The net income therefrom to the State of Alabama in 1911 was \$18,714.00; in 1912 it was \$127,834.66; in 1913 it was \$101,237.15; in 1914 it was \$61,076.49.

The total received by the State for the four years was \$308,862.30. The average received per annum by the State during the four years was \$77,215.57. As a revenue raising measure it was a failure. To raise revenue from beer, wine and liquor sales, heavy drinkers must be developed and our men and women must drink often, or drink to drunkenness. This will not do. No state should raise revenue by making drinkers or drunkards of its citizens. Hon. S. H. Blan—State Treasurer of Alabama—gave me these figures from the Auditor's books. See his letter attached.

My platform declared personally, politically, and officially for prohibition. The former legislature took no steps against my principles and platform on this subject, except passing the near beer bill.

These prohibition statutes can be enforced, as any other law, if the Judge, Solicitor and Sheriff favor and earnestly urge obedience to them. The grand and petit juries will follow their lead. If they proclaim to the public that prohibition cannot be enforced, because the grand juries will not indict and if they indict the petit juries will not convict; then of course no law enforcement by the



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juries will be secured as officials do not lead, point to and go that route. They have no leader to follow for prohibition enforcement.

If the Judge, Solicitor and Sheriff—officers sworn and paid to enforce and obey the laws talk publicly and privately that the law must be respected and if they observe it personally and tell the grand juries they must indict and the petit juries they must convict, if the evidence shows guilt beyond a reasonable doubt, then you would see great results. The grand and petit juries would respect and enforce the statutes and observe as jurors their oaths and perform their duty as citizens and jurors.

When the evidence shows guilt and the grand juries will not indict and the petit juries will not convict, look and see and you may find the cause. It may be some official or officials are not measuring up to their duty under their oaths, and bona fide urging indictments and convictions.

The wise man—King Solomon—inspired wrote in Holy Writ:

“Wine is a mocker, strong drink is raging and whosoever is deceived thereby is not wise.”

Wine was mocking and strong drink was raging in the United States; more than three-fourths of the States were deceived thereby. They were not wise. Prohibition was stricken from our National Constitution. This nation saw strong drink raging; they were not wise; they were deceived thereby; they removed this great principle from our great Constitution.

Wine is mocking and strong drink is raging in our States. Some saw it and were wise—rejected it. Some saw it, were unwise and were deceived thereby.

In Alabama—our State—wine is now mocking and strong drink is now raging; let us be wise and not be deceived thereby. Let us remember Solomon's truths; don't trust wine, beer or liquor. Keep them out of Alabama. Be wise and protect and guard now our children, brothers, sisters, ourselves and our families and our friends and citizens from these mocking and raging drinks.

Saint Paul—the great apostle wrote:

“Be not deceived: God is not mocked: for whatsoever a man soweth that shall he also reap.”

## XX

This is a great and true principle. It is recorded in the Book of Books to guide us in this life.

When we sow wine or beer or liquor seed in Alabama, what shall we reap? Not sober men and women. Do we want to sow seeds of beer, wine and liquor so from its financial fruits our educational system will grow? No, never. No child should be taught that his education depended on the amount of beer, wine and liquor the citizens of Alabama will consume. No wine, beer or liquor money should be secured from our citizens to educate our children. This government should run without beer, wine or liquor money.

Alabama should never be a wine, beer or liquor vendor.

Alabama's seal of approval should never be placed on an Act permitting the sale of alcoholic beverages in this State.

Alabama should never form a partnership with beer, wine or liquor. No government should go into the beer, wine or liquor business.

When you sow wine, beer and liquor seed in Alabama what result can you expect when its fruit is fully ripe?

"At the last it biteth like a serpent and stingeth like an adder."

Gentlemen of the Legislature the spirit of wine, beer and liquor is raging among some in Alabama. In your legislation be wise and be not deceived thereby.

Remember whatsoever a State sows that shall it also reap. If you sow beer or wine or liquor in Alabama, you can expect to reap fruit that will bite like a serpent and sting like an adder.

Be wise and plant no such seed in Alabama.

Keep the bite of the serpent and the sting of the adder out of Alabama.

Keep an open mind on all questions presented for your consideration. Listen with a fair mind and render an impartial judgment on all proposals in the program of our incoming Governor. Do not form a bloc against him or all of his measures. Study each carefully. Bloc with him on all good causes. Bloc against his admin-

## XXI

istration bills only when you are thoroughly convinced they are not for the public good.

Thus you can co-operate, keep in harmony with each other and render valuable service to the State and your constituents.

May blessings flow to Alabama as a result of his and your legislation.

Respectfully,

B. M. MILLER,

Governor.

XXII

STATE OF ALABAMA  
OFFICE OF STATE COMPTROLLER  
MONTGOMERY

December 31, 1934.

Honorable B. M. Miller,  
Governor of Alabama,  
Montgomery, Alabama.

Dear Sir:

The books of the State Treasurer show a cash balance as at the close of business December 31, 1934 of \$5,516,182.45. Warrants which had not been presented for payment totaled \$637,577.30. The net cash balance to the credit of the various Funds, as shown by the accompanying statement, was \$4,878,605.15. We owe on account of borrowings \$100,000.00, which will be paid within the next few days.

An operating statement covering the first quarter of the fiscal year is now being prepared and will be submitted to you within a few days.

Respectfully submitted,

James H. Hard, Jr.  
State Comptroller.

JHH\*A

## XXIII

STATE OF ALABAMA  
FUND BALANCES AS AT DECEMBER 31, 1934, AS SHOWN BY  
THE BOOKS OF THE STATE COMPTROLLER

## Educational:

Public School Fund.....	\$ 263,268.49	
Special Educational Trust Fund.....	150,330.70	
Special Educational Unapportioned.....	50,126.67	
Federal Funds .....	100,817.78	\$564,543.64

## Highway:

State Funds .....	668,624.55	
Federal Funds .....	4,872.40	673,496.95

Agricultural Fund .....	166,123.24
Alabama Bridge Corporation.....	2,812.18
State Insurance Fund.....	76,251.14
Game and Fish Fund.....	63,689.45
Debt Amendment Fund.....	74,458.16
Convict Fund.....	178,373.35
Pension Fund .....	323,023.26
Other Departmental Funds.....	53,611.27
Other Federal Funds.....	62,967.34
Miscellaneous Trust Funds.....	51,884.40

Total Earmarked Fund.....	\$ 2,291,234.38
General Fund .....	415,254.81
Sinking Fund, Highway Bonds.....	1,741,077.82
County Funds.....	431,038.14

Total Net Balances, per Comptroller.....\$ 4,878,605.15

## RECONCILEMENT WITH TREASURER

Cash in Treasury, December 31, 1934.....	\$ 5,516,182.45
Deduct Warrants Issued and Outstanding.....	637,577.30

Net Balance .....\$ 4,878,605.15

## XXIV

### STATE TREASURER OF ALABAMA THE STATE CAPITOL MONTGOMERY

Dec. 31, 1934.

Hon. B. M. Miller,  
Governor of Alabama,  
Executive Chambers,  
State Capitol,  
Montgomery, Alabama.

Dear Sir:

Pursuant to your request, I have examined the reports of the State Auditor for the years 1911, 1912, 1913 and 1914, and I find that the State license record, therein contained, showed that the State proper received during those years, from cider dealers, breweries, distillers, social clubs for men, wholesale liquor dealers, retail liquor dealers, and a dispensary at Huntsville, the following amounts:

Fiscal year of 1911.....	\$ 18,714.00
Fiscal year of 1912.....	127,834.66
Fiscal year of 1913.....	101,237.15
Fiscal year of 1914.....	61,076.49
Total .....	<hr/> \$308,862.30

The above figures do not include the salaries of Excise Commissioners, which are shown as both items of receipt and expenditure.

With kindest regards, I am

(Signed)

Very truly,

S. H. BLAN, State Treasurer.

XXV

STATE OF ALABAMA  
EXECUTIVE DEPARTMENT

Montgomery, Dec. 22, 1934.

Hon. B. M. Miller,  
Governor of Alabama,  
CAPITOL.

Dear Sir :

I beg leave to report on paroles and pardons granted by you from the beginning of your administration, January 19, 1931 to date.

The records show that you have granted 5,228 permanent paroles pending good behavior; that you have granted 383 full pardons with restoration of civil and political rights, and that you have restored citizenship in 83 cases where the person had been convicted of crime in the Federal Court.

The records further show that of the 5,228 permanent paroles granted by you, that you have revoked only 182 of them.

The records further show that 45 persons were sentenced to death in electric chair and that you have commuted 28 of them from the death sentence to life imprisonment. You have denied commutation of death sentence in 16 cases. One (1) prisoner under sentence of death died in prison hospital before date set for his execution.

You have remitted forfeiture in 84 cases, and have remitted fines in 38 cases.

Thirty-three (33) convicts have been transferred to the hospitals for the Insane, and 3 have been transferred to United States Government Hospitals for treatment.

Seven (7) convicts have been transferred to the Reform School.

Respectfully submitted,  
W. F. COVINGTON, JR.  
Recording Secretary.

XXVI

ALABAMA RELIEF ADMINISTRATION

Montgomery, Ala., Dec. 19, 1934.

Governor B. M. Miller,  
State Capitol,  
Montgomery, Alabama.

Dear Sir:

Enclosed herewith is schedule showing total money received through December 19, 1934 by Alabama Relief Administration, amount spent in Alabama by the Civil Works Administration, amount received by Relief Administration for education, amount received for handling cattle, amount received for Rural Rehabilitation, and amount received for Miscellaneous Special Projects.

I am also showing\* value of Surplus Commodities shipped to Alabama and estimated value of cattle shipped.

Yours very truly,

ALABAMA RELIEF ADMINISTRATION,

(Signed) By A. P. MORGAN, Jr.

Chief Accountant.



## XXVII

ALABAMA RELIEF ADMINISTRATION  
MONTGOMERY, ALABAMASCHEDULE SHOWING TOTAL MONEY RECEIVED THROUGH  
DECEMBER 19, 1934, ALSO AMOUNT SPENT IN  
ALABAMA BY CIVIL WORKS  
ADMINISTRATION

Received for Relief by Alabama Relief  
Administration .....\$27,442,425.61

Received for Relief by counties prior to the organization of Ala-  
bama Relief Administration:

Jefferson County .....	\$496,704.00	
Montgomery County .....	20,000.00	
Tuscaloosa County .....	12,000.00	528,704.00

Total Received for Relief .....	\$27,971,129.61
Received for Rural Rehabilitation .....	3,300,000.00
Received for Cattle .....	681,250.00
Received for Miscellaneous Special Projects .....	621,880.00
Received for Education .....	2,990,931.33

Total Received by Alabama through December 19,  
1934 including General Relief, Rural Rehabilitation,  
Cattle, Miscellaneous Special Projects and Edu-  
cation .....\$35,565,190.94

Total amount spent in Alabama by the Civil Works  
Administration ..... 15,713,915.87

Total F. E. R. A. and C. W. A. Funds.....\$51,279,106.81

Value of Surplus Commodities shipped to Alabama  
by the Federal Surplus Relief Corporation not in-  
cluded in the above figures, approximately.....\$ 3,275,000.00

## XXVIII

Total number of cattle received by Alabama from the

Federal Surplus Relief Corporation.....	50,000 head.
Number of cattle already canned.....	45,500 head.
Number of cattle on pasture.....	4,500 head.

Total as above.....	50,000 head.
---------------------	--------------

Cattle already canned produced, 2,412,538 cans.

Approximate value of cattle—\$500,000.00.

Total including estimated value of Surplus Com-  
modities and estimated value of cattle.....\$55,054,106.81

A. P. MORGAN, Jr.

Chief Accountant

## XXIX

### STATE OF ALABAMA HIGHWAY DEPARTMENT

Montgomery, December 19, 1934.

Hon. B. M. Miller,  
Governor of Alabama,  
State Capitol.

My dear Governor Miller:—

We feel that it will be of interest to you to know the amount of federal aid funds made available to the State of Alabama during your administration. Also amounts expended and obligated to date.

In order that amounts may be clearly and concisely set out, we have prepared a statement showing the total amount allocated to the State of Alabama and made available during your administration. This amount has been authorized by various Acts of Congress without having to be matched by state funds and without increasing the public debt of the State of Alabama by one dollar. The present status of federal aid funds made available as mentioned above can readily be seen from the following:

Total funds allocated to Alabama.....	\$23,679,044.79
Amount expended and contracted to date .....	19,994,026.23
<hr/>	
Balance to be contracted .....	3,685,018.56

The above figures include projects advertised and on which bids were opened on December 14, 1934. However, they do not include projects in the approximate amount of \$227,000.00 on which bids will be opened on the 22nd of this month.

While, of course, we have improved a large mileage of other types of roads during this administration, we should like to point out especially that the number of miles of paved roads has been more than doubled during your administration, as will be noted from figures below:

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MILEAGE OF PAVED ROADS

	Built Prior to 1-19-31	Built to Date	Total
Concrete .....	523	519	1042
Bituminous Surface .....	450	564	1014
	<hr/> 973	<hr/> 1083	<hr/> 2056

While you have been advised from time to time of the progress of our road building program, we feel that it will be of much interest to you to have the information brought up to date and that you will share our pride in the accomplishment.

Very respectfully yours,

LANDON G. SMITH,  
Highway Director.

XXXI.

STATE OF ALABAMA  
OFFICE OF STATE COMPTROLLER  
MONTGOMERY

December 31, 1934.

Honorable B. M. Miller,  
Governor of Alabama,  
Montgomery, Alabama.

Dear Sir:

The outstanding bonded debt, including the Alabama Bridge Corporation, is \$78,585,200. The amount outstanding on each issue is shown by Exhibit No. 1 attached hereto.

During your term of office the bonded debt has been reduced \$5,748,000 by the following payments:

Highway, 1st Issue.....	\$ 2,192,000.00
Highway, 2nd Issue.....	2,211,000.00
Harbor Improvement .....	125,000.00
	<hr/>
	\$ 4,528,000.00
Alabama Bridge Corporation.....	1,220,000.00
	<hr/>
	\$ 5,748,000.00

During the same period interest payments on the bonded debt have totalled \$12,753,768, as shown by Exhibit No. 2 herewith.

There has been deposited in the Sinking Fund, as provided by law, in addition to the payments recited the sum of \$1,743,323.75 to meet maturities of Highway Bonds, as below:

1st Issue, due June 1, 1935.

Principal .....	\$429,000.00
Interest .....	383,275.00

2nd Issue, due March 1, 1935.

Principal .....	447,000.00
Interest .....	484,048.75

Total .....	<hr/>
	\$ 1,743,323.75

Respectfully submitted,

JAMES H. HARD, Jr.,  
State Comptroller.

JHH/A

# XXXII

## Exhibit No. 1

### BONDS OUTSTANDING AS AT JANUARY 1, 1935

Class A, due 1956,.....	\$ 7,137,000	
Class C, due 1956,.....	966,000	
Funding, due 1950.....	454,000	
		<hr/>
	\$ 8,557,000	
Highway, 1st Issue, Serial.....	17,612,000	
Highway, 2nd Issue, Serial.....	21,838,000	
Harbor Improvement, Serial.....	9,875,000	
Warrant Refunding, due 1938.....	16,923,200	
		<hr/>
		\$74,805,200
Alabama Bridge Corp., Serial.....		3,780,000
		<hr/>
Total .....		\$78,585,200
		<hr/>

## Exhibit No. 2

### STATEMENT OF INTEREST PAID ON BONDED DEBT FROM JANUARY 19, 1931 TO DECEMBER 31, 1934

Interest on Highway, 1st Issue,.....	\$ 3,261,258	
Interest on Highway, 2nd Issue,.....	4,068,520	
Interest on Harbor Improvement,.....	1,717,625	
Interest on Old Bonded Debt.....	1,358,880	
Interest on Warrant Refunding,.....	1,269,515	
		<hr/>
		\$11,675,798
Alabama Bridge Corporation,.....		1,077,970
		<hr/>
Total, .....		\$ 12,753,768
		<hr/>

### STATE OF ALABAMA DEPARTMENT OF EDUCATION MONTGOMERY

December Thirteenth, 1934.

Governor B. M. Miller,  
State of Alabama,  
Montgomery, Alabama.  
Dear Governor Miller:

Pursuant to your request, I am handing you herewith a statement, itemized and consolidated, showing the sources and the

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amounts of receipts for the support of public education in Alabama during the fiscal year 1933-1934.

If I can be of further assistance to you in regard to this or any other matter, please let me know.

Sincerely yours,

A. F. HARMAN,  
State Superintendent of Education.

JWA :ab

## SOURCE OF RECEIPTS FOR EDUCATION IN ALABAMA DURING THE FISCAL YEAR ENDING SEPTEMBER 30, 1934

SOURCE	AMOUNT
I. Revenue Receipts	
1. Federal Funds (Regular and Emergency).....	*\$4,221,839
2. State Funds.....	6,700,309
3. County Funds (County Tax for Public Schools).....	4,502,631
4. Local Funds (District Tax, Fees, Local Gifts).....	4,794,148
5. Appropriations from Local Govern- ments, Rent Other.....	927,018
Total Net Revenue.....	\$21,145,945
II. Non-Revenue Receipts	
1. Loans, Bond Sales, Other.....	\$ 788,110
2. Sale of Property.....	\$ 4,811
Total Non-Revenues.....	\$ 792,921
TOTAL NET RECEIPTS.....	\$ 21,938,866

\*Of this amount, the public schools used \$1,694,696 as emergency relief aid for repairs, building and improvement, \$1,972,195 for extension of school terms, and \$255,341 for special classes and other purposes, making a total of \$3,922,232.

A L A B A M A  
SOURCE OF RECEIPTS FOR EDUCATION DURING 1933-1934

SOURCE	Elem. and High Schools	Higher Institutions	State Depart- ment of Education	Total
Revenue Receipts				
Federal Funds				
Vocational (Regular).....	\$88,510	\$34,051	\$11,650	\$134,211
Extension of School Term.....	1,972,195	0	0	1,972,195
CWA—Maintenance and Capital Outlay.....	1,694,696			1,694,696
Special Classes and Other.....	255,341	†165,396	0	420,737
State Funds .....	5,528,011	1,071,501	100,797	6,700,309
County Funds .....	4,502,631			4,502,631
Local Funds				
District Tax .....	3,448,771			3,448,771
Fees .....	219,331	1,008,684		1,228,015
Gifts .....	115,690	1,672		117,362
Total .....	3,783,792	1,010,356		4,794,148
Appropriations .....	283,893			283,893
Philanthropic .....	18,967		18,722	37,689
Rent, Interest, Other.....	2,710,464	379,792		3,090,256
Total Revenue—Gross .....	20,838,500	2,661,096	131,169	23,630,765
Inter County-City Transfer of Funds.....	2,484,820			2,484,820
Total Revenue—Net.....	18,353,680	2,661,096	131,169	21,145,945
Non-Revenue Receipts				
Loans, Bond Sales, Other.....	771,302	16,808		788,110
Sale of Property.....	4,811			4,811
Total Non-Revenue .....	776,113	16,808		792,921
TOTAL RECEIPTS—NET.....	\$19,129,793	\$2,677,904	\$131,169	\$21,938,866

†Unclassified.



## MESSAGE OF THE GOVERNOR

January 15, 1935

*To the Legislature of Alabama:*

The Constitution has wisely divided the functions of Government into three main departments—THE EXECUTIVE, THE LEGISLATIVE AND THE JUDICIAL, and has accorded to the Governor the privilege of communicating to the Legislative branch such ideas as will, in his judgment, be of interest and through it, of benefit to the State.

My first expression to you I wish to be one of grateful appreciation of the harmonious, prompt, and efficient way in which you have organized and prepared for the work that confronts you.

I feel sure that you share with me the thought that the Legislative and Executive Departments are expected by all the people to act promptly and harmoniously on all questions affecting the people's interests. Much is expected and much must need be done if we are to measure up to the confidence reposed in us by the people of Alabama, and to the responsibilities that they have put into our hands.

It is my purpose, from time to time, to communicate to you my ideas on matters affecting the present and future interests of our State. I will do this in all candor. I earnestly request that you in turn share with me your candid opinion. It is only in this way that we may hope for that cooperation and harmony so necessary for the common good.

For the present, I shall call attention to those things that seem to me to be of pressing importance, and at future times, will submit for your consideration the complete Legislative Program as outlined in the platform upon which I was elected Chief Executive.

I here express the hope and the wish that we work as rapidly as is consistent with the careful and thoughtful enactment of the laws proposed. I am asking you therefore, to have at least four Legislative days during each calendar week.

## PROHIBITION REFERENDUM

I think it advisable and necessary to the proper conduct of future legislation to enact as quickly as possible an Act referring to the people prompt determination of the prohibition question. A Bill indicating my views will be presented to your body at once with the hope that it will meet your approval and that we may submit this vexed question to be settled at an election and at a time to be set by you soon after the recess, and separate and apart from all other questions. I am sure that you know as I do, that until this matter is definitely settled it will constantly recur and seriously affect much of the legislation that may be proposed.

## XXXVI

T. V. A.

I ask your early and prompt consideration of legislation that will enable Alabama to cooperate fully with the aims and purposes of the Tennessee Valley Authority in the development of its program. To this end I am asking the passage of a bill relieving the Alabama Public Service Commission of any jurisdiction over the Tennessee Valley Authority or other Federal agency or instrumentality, working for development in Alabama, and permitting other utilities or private corporations or municipalities to sell or dispose of their franchises stocks and property to such Federal agencies, a majority of whose stock is owned by the United States Government, without the approval of the Alabama Public Service Commission or other like agencies.

### HOUSING ACT

A measure has already been introduced to permit banks and corporations in Alabama to comply with the requirements of the Federal Housing Act. This meets with my approval and I desire its prompt enactment.

### RELIEF

At the request of the President of the United States, the Federal agencies having charge of all forms of relief are preparing bills for enactment by the Alabama Legislature that will meet the Federal requirements and enable Alabama to participate promptly in the President's program. As soon as the necessary data is procured, which I hope will be in the next few days, I will confer with the proper Committees of your bodies and submit to them the data and through them to you, for your consideration, the things necessary to be done so that Alabama may participate fully and receive her share of Federal appropriations.

### CONSOLIDATION

I urge the abolition of the Department for Inspection of Jails and Alms-houses and the enactment of legislation that will transfer the duties of this Department, to the Medical Department of the State, the Convict Department, and the Comptroller's office. I am given to understand that the duties of this office can be promptly and efficiently handled with the elimination of its present expense to the State. A Bill to accomplish this purpose has been drawn and will be submitted to you for your consideration.

I urge the abolition of the Fire Marshal's Department and the transfer of the duties of this Department to the State Department of Insurance, and under the supervision of the State Insurance Commissioner. This will eliminate duplication of overhead expense, and give even greater efficiency. A Bill to accomplish this purpose has been drawn and will be submitted to you for your consideration.

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### ADDITIONAL POWERS

Experience has demonstrated that in making Executive appointments, the Executive often errs. It may be that the present Executive will err in making Executive appointments. It is not always clear that the Executive making the appointments has the authority to remove the appointee. As I have the responsibility, and I am willing to assume it, I also wish to have the power to remove at pleasure, any appointment made in any of the State Executive Departments. A Bill embodying my wishes and ideas along this line, has been prepared and will be submitted to you for your consideration.

### BOARD OF ADMINISTRATION

The experience of the past has demonstrated to me that the old set-up in the State Board of Administration was satisfactory. This is one of the most important positions connected with the State Government. It is my wish that the law be so changed as to have a President of the Board and an Associate Member, and that these officers be required to devote to the duties of the office their entire time, and shall hold no other lucrative position while a member of the Board of Administration. A Bill expressing my wish in this regard has been prepared and will be submitted for your careful consideration.

### HIGHWAY COMMISSION

It is my belief that the manifold duties of the Highway Commission can be best administered by having three heads of departments. The public had rather deal with the head of the Department than with a Chief Clerk, and it is my wish that the Highway Commission be increased from one to three members, a President and two Associate Commissioners. A Bill accomplishing this purpose has been prepared and will be submitted to you for your careful consideration.

### STATE TAX COMMISSION

Many questions affecting the revenue of the State and the rights of the tax-payer are presented for consideration to the State Tax Commission. The public has constant dealings with this Commission and it is my judgment that three Commissioners can more efficiently, economically, and satisfactorily handle the business of the Commission than one man. I wish this Commission increased to three members, a President and two Associate Members. A Bill to accomplish this has been prepared and will be submitted to you for your consideration.

## XXXVIII

### RECESS

I suggest that when the legislation herein requested has been enacted that a Recess to be taken by the Legislature until such time as may be necessary to hold a referendum on the prohibition question and as will give recess committees, to be appointed, time to consider the subject of major legislation, such as Education, Revenue and Public Welfare, and to report their findings in the shape of necessary Bills.

I thank you for your consideration.

BIBB GRAVES.

## MESSAGE OF THE GOVERNOR

May 7, 1935.

*Mr. President and Gentlemen of the Legislature:*

Let me assure you of my grateful appreciation of this high privilege that you now accord to me.

In the short time that you have been in session more constructive legislation has been accomplished than in any like period of which I know.

Alabama has been put in position to avail herself of our President's great program. She should now be able to play the game as a full member of the Nation's team—doing her part and getting her part.

You recall that last December some of our schools closed for lack of funds. An agreement was made whereby those schools that were closed were reopened and all were kept open, and, except those that have finished their normal term—none less than 7 months—they are all still running.

The agreement included an undertaking on our part to put up as much as three million dollars in matching federal funds. We are keeping up our part of this agreement.

I believe that the supreme test of your faith in me was your enactment of the gasoline tax law, enabling us to carry out this agreement. I am convinced that that agreement made at that time was wise and profitable to our State. You doubtless note every few days in the papers some state is entirely cut off from all relief for failure to match, and the amounts required at this time are proportionately many times greater than was required of us at that time.

For your information, let me say that every cent we have received from the gasoline tax that has been used for matching has been spent on roads. All of it with the wholehearted cooperation of the counties involved and if the State but had the money we could be using much more than we are.

You also provided for the refunding of \$16,920,000 warrant bonds which were bearing 5% interest. These were refunded over a period of thirty years at a basis of 3.80. This saving of  $1\frac{1}{3}\%$  in the rate of interest or approximately  $\frac{1}{4}$  of all interest charges amounts to more than \$200,000 a year and the major portion of those bonds are the long term bonds from 20 to 30 years which bear only  $3\frac{3}{4}\%$ .

By this refunding we are not only keeping up the interest but paying off the bonds at a great saving. Next year we will pay off \$200,000 of principal and pay all the interest for less than the interest cost this year.

I believe that the real reason for this high credit of the State is due to the efficient enforcement of our tax laws.

It has been shown to the satisfaction of bond buyers that the income tax will bring in approximately as much as is necessary to pay the interest and principal of these bonds without a charge on our General Fund.

In that connection, let me tell you that the Tax Commission, since the 15th day of January last, has paid into the State Treasury around three-fourth million dollars more than was paid in in the corresponding period a year ago, with the same laws. I think this a great achievement for less than four months. I hope this rate of increase will continue but we can not know until further trial has been given. This increase of revenue is enabling us to pay all general fund appropriations one hundred cents on the dollar and I am sure that this will continue throughout this fiscal year. To illustrate: last year Public Health Service received \$282,000. This year they are getting, and will get, their whole \$400,000. But there is another side. Ad valorem taxes will do well to hold up to last year's receipts because of the material reduction in the amount of assessments.

We can not know what we can expect next year in the way of property taxes until the Boards of Review in the several counties shall have finished their work and fixed the ad valorem assessments for next year. We can not know how much millage tax the school districts will get or how much the counties will get or how much the State will get from ad valorem taxes until those assessments are fixed, and we cannot know how much it will be necessary to supplement these local funds to keep the schools going seven months until we know what the local income is to be.

I have come before you today for the primary purpose of making one suggestion, and that is that no General or other material appropriation bills be passed until we can see clearly what our resources will probably be for the next year.

Let me assure you in advance that whatever decision you reach will have my wholehearted cooperation, but I do not believe, with the lights now before us, we can tell with any certainty what those resources will be. We do not yet know whether the State Tax Commission will continue to increase receipts from sources under its control until further test.

I want to share with you, and I want you to share with me, the full responsibility of giving our State a functioning government.

I would not like for you to use up all of your fifty days and not make provision for a functioning government. I do not think it best for you to exhaust your constitutional power and leave it entirely in my hands as to whether I call you back in special session after the necessary information is in hand. I do not want all

the marbles in my pocket where it is up to me to call you or not to call you, where it is my sole prerogative to put into the call the things I want and leave out the things you might want.

I am therefore suggesting that you continue in session and pass all the legislation that you believe for the good of the State but hold back fifteen or twenty days until near the end of the fiscal year in order that you may have the full power and the full opportunity to deal with conditions as they then are, as you then think best.

I want to urge you, with all the earnestness that is in me, to pass the Revenue Law that is before you substantially as it is. There is not a great amount of new revenue in it but the legal machinery for enforcing the law is absolutely essential in my judgment. With that new machinery promptly passed I should be able in the next two or three months to fully determine to your satisfaction whether or not it is possible to give to Alabama that functioning government, which she must have, without new taxation. I am sure we are all determined to give that functioning government. I am sure we are all anxious to do it without additional taxes.

It is for these reasons that I suggest a recess after the Revenue Bill is passed and after you shall have passed legislation that is essential in your judgment; that the recess shall hold back fifteen or twenty days of your constitutional fifty day limit; that no General Appropriation Bill be passed until after that recess. By holding back fifteen or twenty days we should then know whether or not further taxation will be necessary and we should have ample opportunity to provide for that further taxation if it is found to be necessary, and then after the revenues are fully provided for, and we clearly see the situation that we are then in, we can more intelligently frame the General Appropriation Bill.

The recent experience of Alabama shows the wisdom of this course. In 1919 the General Appropriation Bill was approved on the 30th day of September, just one day before it went into effect. In 1923 the General Appropriation Bill was approved on the 29th day of September. Eight years ago on the 7th day of September. Four years ago it was approved in July and it became necessary, as you know, for the legislature to reconvene and repeal it. All of which, in my judgment, proves the wisdom of waiting until we know the income from ad valorem and until we should have thoroughly tested out the income derived through the State Tax Commission and until we can clearly see what our situation is and what the immediate future holds in store.

Therefore, I am suggesting that you consider whether or not it would be best to proceed on lines that will give both to you and to me the full joint constitutional power and authority to meet our

responsibilities when they are more clearly before us. In other words, hold back for the latter part of the fiscal year, August or September, enough time to take such action as the lights then before us may appear best.

Now, gentlemen, the last plank, the foundation plank of our National Democratic Platform is this:

"We advocate the continuous responsibility of government for human welfare and especially the protection of children".

That continuous responsibility for human welfare is today's challenge to government in both State and Nation. In my judgment, the salvation of our Americanism and the World's hope of individual liberty depends upon how government measures up to that continuous responsibility for human welfare. In this crisis, Alabama's government must not fail the people of Alabama. We must take no backward step in any of those things that conserve and further human welfare. We must provide for Alabama a functioning government with stress on schools and health.

Each of us is here because God put it into the hearts of our people that sent us here to have faith in us. They are not here to tell us what to do or to check up on us. They trust us to do the things that are best. They have faith in us. May God help us to keep that faith.

I thank you.

BIBB GRAVES,  
Governor.



MESSAGE OF THE GOVERNOR

August 13, 1935.

*Gentlemen of the Legislature:*

I thank you for this opportunity that you give me to come before you to draw to your attention matters that seem of major concern to our State for such consideration and action as to you seems best.

I am devoutly grateful for the spirit of cooperation and good will that holds steadfast between our departments, and I pledge to you that, so far as in me lies, this spirit will live and grow to the end of our journey.

In this composite mind of us all rests the fate of Alabama. The fate of the absent millions whose faith in us put their fate in our keeping. These absent, without watching or prompting, trust us to see and to do the things needful for them. Let us not fail them, but do for them those things that need to be done.

The general condition of our State is much improved, and is growing better steadily, surely, and I believe permanently. The New Deal is a go and is well under way throughout the State. Let us realize our obligation to our President for this program, backed as he has caused it to be by the might of America. I shudder to think of the despair if not chaos that would have been our lot but for his leadership. Alabama is getting her full part in this new deal—let her “Keep on keeping on”, play the game and do her full part.

HOMESTEAD EXEMPTIONS AND FUNCTIONING  
GOVERNMENTS

Our greatest privilege and foremost duty is to give to our people homestead exemptions, together with functioning governments, State, County and City. Home is the basis of our social being. Let us provide that every worthy Alabama family may soon have a home—not just a place to rest or to “roost” but a home “to have and to hold” and to own—in which to live and die—a home that shall not be sold for any taxes or government charges.

Together with homestead exemptions we must give to our people functioning governments. These two should be linked together which makes it necessary for us to find the means—the money—with which these things can be done.

The planks upon this subject, in the platform upon which I was nominated for Governor are in the following words:

“I favor the exemption from taxation of as much as two thousand dollars on homesteads.

The Income Tax is in our Constitution and Laws by the will of the people. I will enforce it and oppose its repeal.

I will oppose the Sales Tax.

#### XLIV

Experience and familiarity with our State's business on the one hand, and knowledge of the financial condition of our people on the other hand, are the efficient instruments whereby, when I am Governor, I will be able to balance the budget, pay the State's debts, run our schools, and operate an efficient Government by economy without further taxation.

Should conditions make this impossible, I still promise to "PAY THE DEBTS, RUN THE SCHOOLS AND PROVIDE AN EFFICIENT GOVERNMENT", and do so with the least possible burden on our people."

The Administration is exerting its every effort to pay the debts, to run the schools and provide an efficient Government without a sales tax. The State's tax agencies are functioning more effectively than I had hoped, but I now expect a decrease instead of an increase in the income of the State, counties and cities from ad valorem taxes, and it seems that we must face the fundamental promise in the last paragraph of that plank, wherein it is stated that if conditions make it impossible to operate without additional taxes, "I still promise to pay the debts, run the schools and provide an efficient Government, and do so with the least possible burden on our people."

Because of these committals on my part and of similar committals on the part of many of you, I can not approve the levying of a Sales Tax unless the people themselves assent thereto.

I know that our human agencies must function efficiently. That they may do so, I believe it necessary that those agencies that are supported from the General Fund receive the same appropriations now on the books, the same that they are receiving this year. We know that the public schools must receive the amount submitted by the Educational Department for a minimum program of 7 months for common schools and 9 months for high schools. All of these will require much more money than is now in sight. Just how much more we do not now know and can not know with anything like definiteness until ad valorem assessments are known and until the effect of the new Revenue Bill is known. We can know all of this by the end of this calendar year and not long before that time.

Therefore, I submit for your consideration the following program:.

That you make the appropriations indicated (the Budget Act will not permit a deficit). That Homestead Exemptions and a Sales Tax be deferred until a special session that I will call in early January next, at which special session a Sales Tax Act be passed effective if and when the people shall have ratified a Homestead Exemption Amendment to our Constitution, which amendment you may have submitted in that January session to be voted upon about

the last of April. We will in January have all facts before us, and will have ample time to put the amendment into effect before the first of October, the beginning of the next tax year.

I further recommend for your consideration that before this regular session ends you pass a reapportionment bill, as provided in the Constitution. It is my judgment that any extreme or radical bill is foredoomed to defeat, therefore, I commend moderation.

I further recommend for your consideration that before this regular session ends you submit a Poll Tax Amendment to our Constitution that will relieve those who have become registered voters more than three years before the submission of the Amendment upon payment of the three years poll tax. This will relieve those of limited means who have gotten so far behind as to make it impracticable for them to restore themselves to the voting list and by limiting the operation of the Amendment to those that have heretofore registered it will close the door against any possible up-set of our franchise provisions.

I further recommend that you submit amendments providing for referendum on laws that have been enacted less than ninety days. This limitation will give ample time for the people to protect themselves and will at the same time prevent the resurrection of old issues. I suggest a majority petition be required.

I also recommend that an Amendment be submitted providing for the recall of all elective officers, including Probate Judges, save Judicial officers, upon a similar petition.

All of the above mentioned proposed Constitutional Amendments have heretofore been introduced and are now before you.

To the end that we adjust ourselves to the new Social Security Act just passed by Congress, bills have been introduced creating a Department of Public Welfare and in connection therewith bills for the benefit of the crippled children and for the blind.

A bill will be introduced today creating a Department of Labor, and in connection therewith bills on unemployment insurance and old age pensions.

I further commend to your favorable consideration the bill conforming to the Wagner-Peyser Act of Congress and the resolution excepting the agricultural bills which have heretofore been accepted by the Governor insofar as in his power lay.

I further urge the passing of Workmens Compensation Bill, now on the calendar, which will supplant our long antiquated law upon this matter.

I further commend to your favorable consideration the commissary bill which will be offered today, and I urge the passage of the bill before you providing a driver's license that will enable us to give more protection to life and property on our highways.

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I further commend to your favorable consideration the ratification of the Child Labor Amendment to the Federal Constitution.

I thank you.

BIBB GRAVES,  
Governor.

August 13, 1935.

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**GENERAL LAWS**  
(AND JOINT RESOLUTIONS)  
OF THE  
**LEGISLATURE OF ALABAMA**  
PASSED AT THE  
**SESSION OF 1935**

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# GENERAL LAWS

No. 1)

(H. 37—Walker)

## AN ACT

To further limit and define the authority, powers and jurisdiction of the Alabama Public Service Commission so as to exempt therefrom certain Federal agencies, instrumentalities and corporations; to define such Federal agencies, instrumentalities, and corporations as non-utilities and to authorize other utilities to sell, lease or otherwise dispose of their property to such non-utilities.

*Be it enacted by the Legislature of Alabama:*

Section 1. All Federal Agencies, instrumentalities or corporations, owned by the United States and all corporations or joint stock companies in which the United States or any of its departments, establishments or agencies own more than fifty percent (50%), of the voting shares of stocks, are non-utilities within the meaning of this Act.

Section II. The Alabama Public Service Commission or like body, shall not have any jurisdiction, authority, power, or control in any respect whatsoever, over any of the non-utilities as defined in this Act.

Section III. Any utility, as defined by Sec. 9742 of the Code of Alabama of 1923, may sell, lease, or otherwise dispose of any or all of its property, including without limitations, any franchise, right, contract, business, good will, capital stock, and all other assets, to any non-utility as defined in this Act, without the approval or consent of the Alabama Public Service Commission, or like body or other agencies of the State of Alabama.

Section IV. If any section, clause, or other provision of this Act, or the application thereof, shall, for any reason be invalid, the same shall not affect the validity of any other section, sentence or clause of this Act.

Section V. All the provisions of this Act shall become effective immediately upon the approval of the Governor.

Section VI. All laws or parts of laws, in conflict with any provisions of this Act, are hereby expressly repealed.

Approved January 24, 1935.

No. 2)

(H. 24—Wallace)

## AN ACT

To create a Highway Commission of three; to provide for their appointment, prescribe their duties, and fix their salaries.

*Be it enacted by the Legislature of Alabama:*

Section 1. There is hereby created a State Highway Commission composed of three members to be appointed by the Governor and to serve at the pleasure of the Governor.

Section 2. In making the appointment of the three members of the State Highway Commission the Governor shall designate their terms of office not to extend beyond the present term, and shall designate one such member as President and the other two as Associate Members.

Section 3. The duties of the State Highway Commission and the powers of said Commission shall be the duties and powers now or hereafter to be prescribed by law.

Section 4. That the salaries of the members of the State Highway Commission shall be thirty-six hundred (\$3,600) dollars per year, payable monthly out of the State Treasury, as other salaries are now paid.

Section 5. That all laws and parts of laws in conflict with any provision of the Act be and the same are hereby expressly repealed.

Approved January 24, 1935.

No. 3)

(H. 27—Hamner

### AN ACT

To define who are members of the State Board of Administration; to provide for their appointment; to define their duties and to fix their salaries.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the State Board of Administration shall consist of two members, to be appointed by the Governor, one of whom the Governor shall designate as President, the other as Associate Member. The members shall hold office at the will of the Governor.

Section 2. Each member of the State Board of Administration shall give to the duties of his office his entire time and attention and shall hold no other lucrative position while a member of the Board of Administration.

Section 3. Each member of the Board of Administration shall have the power and exercise the authority that is now conferred upon them by law or that may hereafter be conferred.

Section 4. That the salary of each member of the State Board of Administration shall be Thirty-six Hundred Dollars, (\$3,600.00), per year, payable monthly out of monies in the State Treasury, as now provided by law.

Section 5. That all laws and parts of laws in conflict with the provisions of this Act, be and the same are, hereby repealed.

Approved January 26, 1935.

No. 4)

(H. 38—Owens (Madison))

## AN ACT

To amend Sections 951, 955, 957 and to repeal Section 952 of Chapter 27 of the Code of 1923, so as to provide for the consolidation and coordination of the office of State Fire Marshal with the office of the Bureau of Insurance and to transfer all the powers, duties and authority of said State Fire Marshal to the Superintendent of Insurance as State Fire Marshal Ex-Officio.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 951 of the Code of 1923 be amended so as to read as follows: "Section 951. The office of the State Fire Marshal is hereby abolished and the Superintendent of Insurance is hereby made State Fire Marshal Ex-Officio, and said State Fire Marshal Ex-Officio shall have and exercise all of the rights, powers and duties now or hereafter, conferred by the law on the State Fire Marshal. The State Fire Marshal Ex-Officio is charged with the duty of administration of all the laws that are now and have heretofore been administered and enforced by the State Fire Marshal. The term of office of the said State Fire Marshal Ex-Officio shall be concurrent and coincident with the term of office provided for the Superintendent of Insurance. The office of the State Fire Marshal shall be located at the Capitol in Montgomery, Alabama, in quarters provided by the State, either in the Capitol building or such other buildings as may be provided, and all necessary office supplies and equipment for the proper conduct of the office shall be furnished by the State from funds acquired as hereinafter provided. Provided, however, that all of the books, papers, records, equipment and supplies now, and heretofore in use and in the office of the State Fire Marshal shall be transferred to the office of the State Fire Marshal Ex-Officio."

Section 2. That Section 955 of the Code of 1923 be amended so as to read as follows: "Section 955. The State Fire Marshal Ex-Officio may appoint a Chief deputy fire marshal, who shall receive a salary of Twenty-Four Hundred and No/100 (\$2,400.00) Dollars per annum, payable monthly out of the State Fire Marshal Fund, on certificate of the State Auditor, or other disbursing officer of the State, who shall draw his warrant on the State Treasurer for such amount. The said chief deputy fire marshal, shall, in addition to the duties required by law to be performed, perform any other duties as may be assigned to him by the State Fire Marshal Ex-Officio. In addition to the chief deputy fire marshal, the State Fire Marshal Ex-Officio may appoint four additional deputy fire marshals, who shall receive a salary of not more than Eighteen Hundred and No/100 (\$1,800.00) Dollars per annum each for the time that they may serve as such, such salaries to be payable monthly out of the State Fire Marshal Fund, on certificate of the State Auditor, or other disbursing officer of the State, who shall



draw his warrant on the State Treasurer for such amount. The State Fire Marshal Ex-Officio shall appoint one chief clerk who shall act as stenographer, and perform such other duties as may be assigned, and said chief clerk shall receive a salary of Twelve Hundred and No/100 (\$1,200.00) Dollars per annum, payable out of the State Fire Marshal Fund, on certificate of the State Auditor, or other disbursing officer of the State, who shall draw his warrant on the State Treasurer for such amount. All of the appointments herein provided for shall be made by the State Fire Marshal Ex-Officio, with the approval of the Governor."

Section 3. That Section 957 of the Code of 1923 be amended so as to read as follows: "Section 957. The Chief deputy fire marshal, deputy fire Marshals, Chief Clerk and other employees authorized to be appointed in this chapter shall be subject to removal by the State Fire Marshal Ex-Officio with or without cause, with the approval of the Governor.

Section 4. That Section 952 of the Code of 1923 be and the same is hereby repealed.

Section 5. This act shall become effective upon its passage and approval by the Governor.

Approved January 24, 1935.

No. 5)

#### AN ACT

(H. 41—Harrison)

To authorize the Governor to discharge, with or without cause, any person appointed by him in any of the State Executive Departments.

*Be it enacted by the Legislature of Alabama:*

Section 1. The Governor is hereby authorized and empowered to discharge from employment, with or without cause, any person appointed by him to fill any position in any of the State Executive Departments.

Section 2. All laws and parts of laws in conflict with this Act, be and the same are hereby expressly repealed.

Approved January 24, 1935.

No. 6)

#### AN ACT

(H. 50—Parker)

To provide for an election in which the qualified electors of Alabama shall express their views on the question as to whether or not Alabama's present laws against the manufacture, sale and distribution of prohibited liquors shall be modified; and, in which the qualified electors of Alabama shall express their views on the question as to whether or not the manufacture, sale and distribution of beer (malt liquors) and wine (vinous liquors) shall be legalized in Alabama; and, in which the qualified elec-

tors of Alabama shall express their views on the question as to whether or not the manufacture, sale and distribution of hard liquors (spirituous liquors) shall be legalized in Alabama; and, providing the form of the ballot, the conduct and expenses of said election; and providing for canvassing declaring the results of said election; and, providing the machinery for the holding of said election.

*Be it enacted by the Legislature of Alabama:*

Section 1. That an election is hereby ordered and shall be held on the 26th day of February, 1935, in the several counties of the State of Alabama, for the purpose of securing the views of the qualified electors of the State of Alabama on the question as to whether or not Alabama's present laws against the manufacture, sale and distribution of prohibited liquors shall be modified and, for the purpose of securing the views of the qualified electors of the State of Alabama on the question as to whether or not the manufacture, sale and distribution of beer (malt liquors) and wine (vinous liquors) shall be legalized in Alabama; and, for the purpose of securing the views of the qualified electors of the State of Alabama on the question as to whether or not the manufacture, sale and distribution of hard liquors (spirituous liquors) shall be legalized in Alabama.

Section 2. That in said election the votes cast shall be canvassed, tabulated, returns made and results declared in the same manner as in general elections. The officers to hold said election shall be the same and shall be appointed in the same manner and by the same officials and shall be paid the same and in the same manner as is now provided by the election laws of the state for the appointment of officers to hold general elections in the State. All qualified voters of the State may vote at said election and none others. That the said election hereby ordered shall be held and conducted in all things in accordance with this act and with the laws of Alabama governing general elections.

Section 3. That notice of the election hereby ordered shall be given by a proclamation of the Governor which shall be published in one newspaper once a week in each county of the state for at least three successive weeks next preceding the day hereby appointed for such election.

Section 4. That the ballots shall be prepared and printed in all respects as ballots are prepared and printed for general elections in the counties of the State and shall be paid for in like manner as ballots for such general elections are now paid; and on the official ballot prepared for such election there shall be printed the following words and questions in the same order as herein set forth:

"Question No. 1. Shall Alabama's present laws against the manufacture, sale and distribution of prohibited liquors be modified?

(Place an X opposite the word indicating your choice.)

Yes\_\_\_\_\_

No\_\_\_\_\_

Question No. 2 Shall the manufacture, sale and distribution of beer (malt liquors) and wine (vinous liquors) be legalized in Alabama?

(Place an X opposite the word indicating your choice.)

Yes\_\_\_\_\_

No\_\_\_\_\_

Question No. 3. Shall the manufacture, sale and distribution of hard liquors (spirituous liquors) be legalized in Alabama under strict State regulation, but under no condition any Saloons?

(Place an X opposite the word indicating your choice.)

Yes\_\_\_\_\_

No\_\_\_\_\_

The choice of the elector shall be indicated by a cross mark made by him or under his direction opposite the word expressing his desire.

Section 5. If the majority vote on Question No. 1 on the ballot is "Yes", then the majority vote on Question No. 2 on the ballot shall be the voter's view as to whether or not beer (malt liquors) and wine (vinous liquors) shall be legalized in Alabama; and, likewise, if the majority vote on Question No. 1 on the ballot is "Yes", then the majority vote on Question No. 3 on the ballot shall be the voters' view as to whether or not hard liquors (spirituous liquors) shall be legalized in Alabama; but, if the majority vote on Question No. 1 on the ballot is "No", then said majority vote on Question No. 1 on the ballot shall be conclusive and shall be the voters' view that neither beer (malt liquors) and wines (vinous liquors) nor hard liquors (spirituous liquors) shall be legalized in Alabama regardless of the majority vote on Question No. 2 on the ballot and on Question No. 3 on the ballot.

Section 6. That the result of said election shall be made known by a proclamation of the Governor of the State.

Section 7. That any person or persons violating any provision of this Act or of the election laws of Alabama in said election shall be punished as provided in the general election laws of Alabama.

Section 8. That all laws or parts of laws in conflict with this Act are hereby repealed; and if any section or provision of this Act is held invalid because unconstitutional the same shall not affect the other sections or portions of this Act.

Approved January 24, 1935.

No. 7)

(S. 8—Woodall)

## AN ACT

To validate and legalize elections heretofore held under the provisions of Article 12 and Article 13 of the Alabama School Code, which was adopted by the passage of an Act entitled "An Act to adopt the Code of laws relating to education, prepared in accordance with the provisions of the Act approved August 11, 1927, entitled "An Act to provide for the revision, codification, digesting and promulgation of the public statutes of Alabama relating to Education."

*Be it enacted by the Legislature of Alabama:*

Section 1. That all elections, whether in school districts or in counties which have heretofore been held under the provisions of Article 12 and Article 13 of the Alabama School Code, which was adopted by the passage of an Act entitled "An Act to adopt the code of laws relating to education, prepared in accordance with the provisions of the Act approved August 11, 1927, entitled 'An Act to provide for the revision, codification, digesting and promulgation of the public statutes of Alabama relating to education,'" which said election resulted in a majority of the votes cast being in favor of the special county or district tax for school purposes and which said elections were irregular by reason of failure prior to the actual holding of the elections to give notice thereof in a newspaper, or by reason of any other irregularity, be and the same are hereby ratified and confirmed and given effect in all respects as if all the conditions, preliminary and prior to the actual holding of such elections as required by the aforesaid Act had been duly and legally complied with; provided, that the provisions of this Act shall not apply to districts and counties in which such elections may have been, in express terms, held and declared illegal by the board of revenue or county commissioners prior to the passage of this Act.

Approved January 24, 1935.

No. 8)

(S. 11—Mooneyham)

## AN ACT

To amend Section 6 of an Act entitled "An Act relating to dependent, neglected or delinquent children in all counties of Alabama, which now have or which may hereafter have a population of not less than seventy-five thousand people and not more than one hundred thousand people according to the last Federal Census or any such census that may be taken hereafter; to declare who are dependent, neglected or delinquent children, to declare that such children shall be wards of the State, to provide for their custody, discipline, supervision, care, protection, guardianship, and welfare; to create and establish in such counties Juvenile and Domestic Relations Courts and to provide for their equipment and maintenance; to create and confer upon such courts jurisdiction under the terms of this Act; to try and determine the question of dependency, neglect or delinquency of children in such counties; and when found to be such to

adjudicate and determine all questions as to their guardianship, custody, supervision, discipline, care, control, protection and training, and generally to confer upon such court jurisdiction and power to try and determine all questions arising under the terms of this Act, or which may otherwise be referred to them by law for adjudication, or which may be necessary or convenient to the exercise of such jurisdiction or to carry out the purposes and intent of this Act; to provide for the trial and punishment of those who aid, abet, cause or connive at or contribute to the delinquency, neglect or dependency of such children; to provide and regulate the procedure in such cases; to confer power upon such courts to make rules and regulations; and to provide such forms when not otherwise provided for, under the terms of this Act as shall be found necessary or convenient to the exercise of its jurisdiction or for the conduct of probation officers or their work, as provided for in this Act; to provide for the taking and enforcing of recognizances and bonds and for the taking of appeals from the decisions of such court; to provide for the trial of any delinquent in a criminal court of competent jurisdiction who has shown himself or herself to be unamenable to the discipline provided for such delinquent as provided under the terms of this Act; and for the appointment of an Advisory Board to such court and to define the duties and powers of such court; to provide for the selection of the judge and other officers of such court and to define their powers and duties; and to provide for their compensation; to declare that should any part of this Act be found unconstitutional that it shall not affect the remainder thereof and to provide for the repeal of all laws in conflict with this Act." (Approved February 26, 1931).

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 6 of an Act entitled "An Act relating to dependent, neglected or delinquent children in all counties of Alabama which now have or which hereafter may have a population of not less than seventy-five thousand people and not more than one hundred thousand people according to the last Federal Census or any such census that may be taken hereafter; to declare who are dependent, neglected or delinquent children; to declare that such children shall be wards of the State; to provide for their custody, discipline, supervision, care, protection, guardianship and welfare; to create and establish in such counties Juvenile and Domestic Relations Courts and to provide for their equipment and maintenance; to create and confer upon such courts jurisdiction under the terms of this Act; to try and determine the question of dependency, neglect or delinquency of children in such counties, and when found to be such to adjudicate and determine all questions as to their guardianship, custody, supervision, discipline, care, control, protection and training and generally to confer upon such court jurisdiction and power to try and determine all questions arising under the terms of this Act, or which may otherwise be referred to them by law for adjudication or which may be necessary or convenient to the exercise of such jurisdiction or to carry out the purpose and intent of this Act; to provide for the trial and punishment of those who aid, abet, cause or connive at or contribute to the delinquency, neglect or dependency of such children; to provide and regulate the procedure in such

cases; to confer power upon such courts to make rules and regulations; and to provide such forms when not otherwise provided for, under the terms of this Act as shall be found necessary or convenient to the exercise of its jurisdiction or for the conduct of probation officers or their work, as provided for in this Act; to provide for the taking and enforcing of recognizances and bonds; and for the taking of appeals from the decisions of such court; to provide for the trial of any delinquent in a criminal court of competent jurisdiction who has shown himself or herself to be unamenable to the discipline provided for such delinquent as provided under the terms of this Act; and for the appointment of an Advisory Board to such court, and to define the duties and powers of such court; to provide for the selection of the judge and other officers of such court and to define their powers and duties; to provide for their compensation; and to declare that should any part of this act be found unconstitutional that it shall not effect the remainder thereof and to provide for the repeal of all laws in conflict with this Act." (Approved February 26, 1931) be and the same is hereby amended so as to read as follows: Section 6. There shall be elected by the Senate immediately upon approval of this act a judge of said court whose term of office shall be for four years from date of said election and until his successor is elected and qualified, said successor in each case being elected by the Senate and in the event of a vacancy in said office, caused by the death, resignation or the removal of said judge his successor shall be appointed by the Governor for the unexpired term. The said judge shall have been a citizen of the United States and of the said county for at least five years before his election, shall be learned in the law, and shall not be less than twenty-seven years of age. He shall be a man of high moral character, clean life, and shall be selected for his special fitness by reason of his training, education and experience in dealing with dependent, neglected or delinquent children as defined in this Act. During the term for which he is elected, he must give such time and attention to the duties of the office as the needs of the said Juvenile and Domestic Relation Courts of the said counties may require or demand. Said Juvenile and Court of Domestic Relations shall be considered open at all times for the transaction of all business necessary and incident to carrying out the purpose of this Act. The salary of the judge of said court shall be twenty-four hundred dollars per annum, payable in twelve equal monthly installments out of the general fund of the counties in which said courts are located and exercise their jurisdiction. There shall also be appointed by the judge a clerk of said court who shall hold office at the pleasure of the judge of said court. It shall be the duty of said clerk to keep the minutes of said court and all other records pertaining thereto. The clerk shall have the power and authority to do all acts and things and perform all other duties, ministerial and judicial, where there is no contest that the judge of said court could do or perform, except to sentence to hard labor for the

county. Such clerks must, before entering upon the duties of the office, take the oath directed to be taken by the officers of this State and give a bond, with surety, payable to the judge of said court, in such sum not exceeding three thousand dollars as he may prescribe, upon which bond such clerk shall be liable to such judge in consequence of any act of misfeasance or malfeasance of such clerks in the duties of their office. The said bond to be approved by the judge of said court, filed and recorded in the office of the judge of Probate of said county. All of the official acts of such clerks must be performed in the name of the judge of said court, except where there is a vacancy in that office. The salary of the clerk of said court shall be eighteen hundred dollars per annum, payable in twelve equal monthly installments out of the general fund of the county in which said court is located and exercises its jurisdiction. If in any matter or proceeding arising in this court or in reference to which the judge thereof is required to exercise jurisdiction or authority or to perform duty, the judge or clerk is incompetent for any legal cause or shall be absent, sick or otherwise disqualified from acting, he or his clerk must certify the fact of incompetency, absence, sickness or disqualification to the Register of the Circuit Court or if the Register is incompetent to the Judge of the Circuit Court and such Register or Judge must upon such certificate, appoint a disinterested person in the county, learned in the law, to act as special judge of the Juvenile and Court of Domestic Relations and such special judge, in relation to such matters or proceedings, shall have the jurisdiction and authority and discharge the duties of the judge of the Juvenile and Court of Domestic Relations and judgments, orders and decrees made or rendered by him shall be entered on the records of such court, and shall have the force and effect and shall be subject to revision on appeal, or by other revisory remedy, of judgments, orders and decrees of such Juvenile and Court of Domestic Relations or of the judge thereof. Such special judge shall for the time in which he serves as such special judge receive the same compensation as said regular judge; provided that not more than four hundred dollars shall be paid out of the funds of the county in any one year for the services rendered or duties performed by such special judge or special judges as may be appointed under the provisions of this section.

Section 2. This Act shall become effective immediately after its passage and approval, and all laws in conflict herewith are hereby repealed.

Approved January 31, 1935.

No. 9)

(S. 23—Rogers of Mobile

## AN ACT

To amend Section 43 of an act of the Legislature of Alabama entitled, "An Act to create a Pilotage Commission to be known as the State Pilotage Commission, to define its jurisdiction, powers and duties, to regulate pilots and pilotage, and to fix fees therefor; to prescribe the mode, penalties, and procedure for violation of this Act, and to repeal all laws in conflict, therewith," Approved March 4, 1931.

*Be it enacted by the Legislature of Alabama:*

That Section 43 of an Act of the Legislature of Alabama entitled, "An Act to create a pilotage commission to be known as the State Pilotage Commission, to define its jurisdiction, powers, and duties, to regulate pilots and pilotage, and to fix fees, therefor; to prescribe the mode, penalties, and procedure for violation of this Act, and to repeal all laws in conflict therewith," approved March 4, 1931, be and the same is hereby amended so as to read as follows: "Sec. 43. There is hereby levied upon each licensed pilot engaged in service as such under the provisions of this Act a license or privilege tax in the sum of twenty-five dollars (\$25.00) annually, to be paid to the Secretary of the Board, and to be used for defraying all expenses and expenditures of said Board accruing under the provisions of this Act. The Board may, by proper resolutions, permit said tax to be paid quarterly. Whenever the funds in the Treasury of the Board exceed the sum of two thousand dollars (\$2000.00) such excess shall be paid over to the Treasury of the State of Alabama. Such privilege or license taxes so paid to the Secretary of said Board shall become a part of the funds of said Board and shall be deposited by the Secretary and otherwise handled and disbursed, as required by the provisions of this Act."

Approved January 24, 1935.

No. 10)

(S. 4—Simpson

## AN ACT

To promote the objects of the National Housing Act by authorizing banks, savings banks, trust companies, insurance companies and building and loan associations, to make loans pursuant to Titles I and II of the National Housing Act, and by authorizing banks, savings banks, trust companies, insurance companies, building and loan associations, to invest in mortgages insured, and in debentures issued by the Federal Housing Administrator, and to invest in securities of National Mortgage Associations.

*Be it enacted by the Legislature of Alabama:*

Section 1. Banks, savings banks, trust companies, insurance companies, and building and loan associations, are authorized: (a) To make such loans and advances of credit and purchases of obligations repre-



senting loans and advances of credit as are eligible for insurance pursuant to Title I, Section 2 of the National Housing Act, and to obtain such insurance. (b) To make such loans secured by real property or leasehold, as the Federal Housing Administrator insures or makes a commitment to insure pursuant to Title II of the National Housing Act, and to obtain such insurance.

Section 2. It shall be lawful for banks, savings banks, trust companies, insurance companies, building and loan associations, to purchase, invest in, and dispose of bonds or notes secured by mortgages insured by the Federal Housing Administrator, and in debentures issued by the Federal Housing Administrator, pursuant to Title II of the National Housing Act, and in securities issued by national mortgage associations or similar credit institutions now or hereafter organized under Title III of the National Housing Act.

Section 3. No law of this State requiring security upon which loans or investments may be made, or prescribing the nature, amount or form of such security, or prescribing or limiting interest rates upon loans or investments, or prescribing or limiting the period for which loans or investments may be made, shall be deemed to apply to loans or investments made pursuant to the foregoing paragraph.

Section 4. This Act shall take effect immediately upon its passage and approval by the Governor.

Approved January 31, 1935.

No. 13)

(H. 61—Harrison

## AN ACT

To amend the code of laws for the State of Alabama, known as the "Agricultural Code of Alabama", of 1927, adopted as the Code of Laws for the State of Alabama prepared in accordance with the provisions of the Act approved February 18, 1927, (H.273 Goode) by the Act approved August 24, 1927, and which pertains to Agriculture and Industries and relating subjects which are administered by, concern or relate to the duties of the Commissioner of Agriculture and Industries, the Department of Agriculture and Industries or the State Board of Agriculture as follows: Amending Sections 66, 67, 69 of Article 8 pertaining to Dairy Products, Utensils, Measuring Devices and Testing Apparatus, and repealing Section 64 of said Article; Amending Section 83 of Article 10 pertaining to Vinegar; Section 105 of Article 13 pertaining to Flour; Sections 115, 116, 117 and 118 of Article 15 pertaining to Agricultural Seeds; Section 126 of Article 16 pertaining to Commercial Feeds; Sections 139, 152 and 153 of Article 17, pertaining to Fertilizers; Section 249 of Article 24 pertaining to Weights and Measures; Section 380 of Article 33 pertaining to Cotton Standards and Public Cotton Classers; Sections 388, 391, 398, 399, 401, 402 and 407 of Article 34 pertaining to Public Warehouses; Sections 484, 487, 488, 489 and 490 of Article 37 pertaining to the Agricultural Funds; Section 13 of Article 3 pertaining to Commissioner of Agriculture and Industries; Section 27 of Article 5 pertaining to the Board of Agriculture; to provide for the construction of

this Act; to provide that Articles 1, 23 and 43 of the Agricultural Code shall be applicable to this Act; and to repeal all laws and parts of laws in conflict with the provisions of this Act.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 66 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 66. **SUBSTITUTES FOR BUTTER AND CHEESE REGULATED.**—A substitute for butter and cheese, not having a yellow color nor colored in imitation of butter and cheese may be manufactured, sold, shipped, possessed, consigned or forwarded by common carriers, public or private, if each tub, firkin, box or other package in which the same is kept, sold, shipped, consigned or forwarded, shall have branded, stamped, or marked on the side or top thereof in the English language in a durable manner the words "substitute for butter" or "substitute for cheese," as the case may be, the letters of the words to be not less than one inch in height by one-half inch in width. The defacing, erasure, cancelling or removal of this brand or mark with intent to mislead, deceive, or violate any section of this Article is prohibited.

Section 2. That Section 67 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 67. **CARDS SHOWING USE OF SUBSTITUTES FOR BUTTER OR CHEESE MUST BE POSTED.**—Substitutes for butter or cheese may be kept, used or served as a food or for cooking, in bakeries, hotels, restaurants, boarding houses, at lunch counters, or other places of public entertainment, only in case the proprietor or person in charge of such place shall display and keep constantly posted a card opposite each table, counter or other place where the customers or other purchasers are served with the same, which card shall contain the printed words "substitute for butter used here," or "substitute for cheese used here," as the case may be, printed in black Gothic letters one inch high by one inch in width, to be placed upon the tubs, firkins, boxes, or other packages in which substitutes for butter or cheese are kept, and no other words or figures shall be printed thereon, provided that said card shall be white and at least 10 x 14 inches in size.

Section 3. That Section 69 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 69. **POSSESSION OF SUBSTITUTES REGULATED.**—No person shall have in his possession or under his control any substance designed as a substitute for butter or cheese, unless the tub, firkin, box or package holding the same is branded or marked in black Gothic letters one inch high by one inch in width. No person shall use in any way, in connection or association with the sale or exposure for sale or advertisement of any substance designed to be used as a substitute for butter, the word "butter", "creamery", "dairy" or the name or representation

of any breed of dairy cattle, or any combination of such word or words and representations, or any other words or symbols or combination thereof commonly used in the sale of butter.

Section 4. That Section 64 of the "Agricultural Code of Alabama", of 1927, be and the same is hereby repealed.

Section 5. That Section 83 of the "Agricultural Code of Alabama", of 1927, be and the same is hereby amended so as to read as follows: Section 83. VINEGAR COMPOUNDS.--Mixtures of two or more of the fore-going vinegars are "compounds" and packages containing the same shall be plainly marked with the word "compound" together with the proportions of the vinegar so mixed, in addition to the other requirements hereof. No such compound containing distilled vinegar and bearing a natural color shall be mixed or made for sale or sold in Alabama.

Section 6. That Section 105 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 105. PACKING FLOUR FOR SALE REGULATED.--It shall be unlawful for any person who manufactures or repacks or who conducts a merchant mill, to pack or cause to be packed or to offer for sale to merchants, or to the general public, or to carry in stock with intent to sell, flour packed in any other than two pound, six pound, twelve pound, twenty-four pound, forty-eight pound and ninety-eight pound sacks or ninety-eight pound and one hundred ninety-six pound barrels, wood, provided any retail merchant may on order, weigh and sell from bulk flour any number of pounds desired by an individual customer.

Section 7. That Section 115 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 115. AGRICULTURAL SEED DEFINED; REGULATIONS AS TO.--The term "Agricultural Seed" or "Agricultural Seeds," as used in this Article (being Article 15), shall be defined as any and all seed or seeds used for planting or seeding purposes of whatsoever kind, which are sold or offered for sale in, or sold for transportation into for use or sale in, the State of Alabama. The State Board of Agriculture shall have the power to adopt definitions for any variety or class of seed or seeds sold or offered for sale in, or sold for transportation into for use or sale in, the State of Alabama, and standards, size of packages, and tolerances as to said standards and packages for any and all such seed or seeds, after a public hearing has been advertised and held. All seed or seeds named in any such regulation adopted by the State Board of Agriculture, sold or offered for sale in, or sold for transportation into for use or sale in Alabama, shall comply with the adopted definitions, standards, tolerances, packages, labelings, and all other regulations of said Board and provisions of this Article.

Section 8. That Section 116 of the "Agricultural Code of Alabama", of 1927, be and the same is hereby amended so as to read as follows: Section 116. AGRICULTURAL SEED SOLD IN BULK BRANDED.--It shall be the duty of any person or persons transporting seed or seeds into or within the State of Alabama to notify the Commissioner of Agriculture in writing or otherwise, on the day of shipment, or within twenty-four hours thereafter, of every such shipment. Such notice shall state the name, amount of each kind of seed shipped and to whom shipped and addressed. Every lot of Agricultural Seeds, except as herein otherwise provided, when in bulk, packages or other containers of five pounds or more, shall have affixed thereto, in a conspicuous place on the exterior of the container of such agricultural seeds, a plainly written or printed tag or label in the English language; provided, however, that no tag or label shall be required, unless requested, on seeds when sold directly to, and in the presence of the consumer and taken from container properly labeled in accordance with the provisions of this Article; and further provided, that this shall in no way exempt the vendor from the analysis given on the tag or label attached to any container, stating: A. The commonly accepted name and variety of such agricultural seeds and the net weight thereof. B. The approximate percentage by weight of purity; meaning the freedom of such agricultural seeds from inert matter, and from other seeds distinguishable by their appearance. C. The approximate total percentage by weight of noxious weed seed as listed in Section D. below, and such other weed or grass seeds as may be designated by the Board of Agriculture. D. the name and number per pound of each kind of seeds, bulblets or tubers of the following named noxious weeds which seeds, bulblets or tubers are present, singly or collectively as follows: (1) In excess of one seed, bulblet or tuber in each five grams of timothy, red top, tall meadow oat grass, orchard grass, crested dog-tail, Canada bluegrass, Kentucky bluegrass, fescues, brome grass, perennial and Italian rye grass, western rye grass, crimson clover, mammoth clover, red clover, white clover, alsike clover, sweet clover, alfalfa, unhulled bur clovers, and all other grasses and clovers not otherwise classified: (2) one in twenty-five grams of millets, rape, flax, and other seeds not specified in (1) or (3) of this subsection: (3) one in one hundred grams of wheat, oats, rye, barley, buckwheat, vetches, and other seeds as large or larger than wheat. For the purposes of this Article, the following shall be defined as noxious weeds: Garlic or wild onion (*Allium vineale*) Bermuda grass (*Cynodon dactylon*), quack grass (*Agropyron repens*), Dodder (*Cuscuta species*), Johnson grass (*Sorghum halepense*), Nutgrass (*Cyperus rotundus*) Canada thistle (*Cirsium arvense*), Corn cockle (*Agrostemma githago*). E. The approximate percentage of ger-

mination of such agricultural seeds, together with the month and year said seed was tested, provided no seed shall be sold with a test date of more than 180 days prior to date of sale. The commissioner shall be empowered to test and publish the results of such tests as herein provided, together with the month and year such test was made by said Commissioner, together with the percentage of germination and date of test as shown on tag or label. F. Where such agricultural seeds were grown. G. The full name and address of the person assuming the responsibility, under the conditions of this Article, for the information placed on the tags, or labels, as required by this Section.

Section 9. That Section 117 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 117. MIXTURES OF CERTAIN SEEDS.-- Mixtures of alsike and timothy, alsike and white clover, red top, and timothy, alsike and red clover, or other mixtures of seed when sold as mixtures and in lots of five (5) pounds or more shall have affixed thereto, in a conspicuous place on the exterior of the container of such mixture of seeds, a plainly written in ink or printed tag or label in the English language, stating: A. That such seed is a mixture together with the net weight thereof. B. The name and approximate percentage by weight of each kind of agricultural seed present in such mixture, in excess of five (5) percent by weight of the total mixture. C. The approximate percentage by weight of noxious weed seeds as listed in Section 116-D of this Article, and such other weed or grass seed as the Board may designate. D. The name and number per pound of each kind of the seeds, bulblets or tubers of the noxious weeds listed in Section 116-D of this Article, which seed, bulblets or tubers are present singly or collectively in excess of one seed, bulblet, or tuber in each fifteen (15) grams of such mixture. E. The approximate percentage of germination of each kind of agricultural seed present in such mixture in excess of five (5) percent by weight, together with the month and year said seed was tested, provided no seed shall be sold with a test date of more than 180 days prior to date of sale. The Commissioner shall be empowered to test and publish the results of such tests as herein provided, together with the month and year such test was made by said Commissioner, together with the percentage of germination and date of test as shown on tag or label. F. Where such agricultural seeds were grown. G. The full name and address of person assuming the responsibility, under the conditions of this Article, for the information placed on the tags and labels required by this Section.

Section 10. That Section 118 of the "Agricultural Code of Alabama", of 1927, be and the same is hereby amended so as to read as follows: Section 118. BRANDING MIXED SEEDS.--Special

mixtures of agricultural seeds, except as specified in Section 117 of this Article, when sold as mixtures in bulk, packages or other containers of eight ounces or more shall have affixed thereto in a conspicuous place on the exterior of the container of such mixture a plainly written in ink or printed tag or label in the English language; provided, however, that no tag or label shall be required, unless requested, on seeds when sold directly to and in the presence of the consumer and taken from container properly labeled in accordance with the provisions of this Article; and further provided, that this shall in no way exempt the vendor from the analysis given on the tag or label attached to any container, stating: A. That such seed is a mixture together with the net weight thereof. B. The name of each kind of agricultural seed which is present in proportion of five (5) percent or more of the total mixture. C. The approximate total percentage by weight of noxious weed seeds as listed in Section 116-D and such other weed or grass seed as the Board may designate. D. The approximate percentage by weight of inert matter. E. The name and number per pound of each kind of the seeds, bulblets, or tubers of the noxious weeds listed in 116-D which are present, singly or collectively, in excess of one seed, bulblet, or tuber, in each fifteen (15) grams of such mixture. F. Where such agricultural seeds were grown. G. The full name and address of the person assuming the responsibility under the conditions of this Article, for the information placed on the tags or labels as required by this Section.

Section 11. That Section 126 of the "Agricultural Code of Alabama", of 1927, be and the same is hereby amended so as to read as follows: Section 126. STATEMENT OF CONTENTS OF COMMERCIAL FEEDS; REGISTRATION FEE.--Before any person shall sell in this State any commercial feeds, he or they shall file with the Commissioner a certified copy of the statement specified in Section 125 of this Article for each brand of commercial feeds, said certified copy to be accompanied by a fee of Two (\$2.00) Dollars for each brand offered for registration, and it is further provided that said brand shall be registered each fiscal year. Upon failure of any person to file with the Commissioner said certified copy, accompanied by said fee of Two (\$2.00) Dollars for each brand offered for registration before the sale or offering for sale of said brand in the State of Alabama, said person shall thereafter be required to pay Ten (\$10.00) Dollars for each such brand offered for registration, sold or offered for sale in Alabama. Said statement shall be accompanied, on request, by a sealed glass jar or bottle containing at least one pound of such feeds to be sold, which sample shall correspond within reasonable limits to the feeds which it represents in the percentage of crude protein, crude fat, and carbohydrates which it contains.

Section 12. That Section 139 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 139. **REGISTRATION OF FERTILIZER DEALERS REQUIRED.**--All manufacturers, co-operatives, or importers of commercial fertilizer, and fertilizer material to be used in the manufacture of the same, who may desire to sell in Alabama such fertilizer or fertilizer material, shall first file, or register, with the Commissioner upon registration forms furnished by the said Commissioner, the name and address of the manufacturer or other person guaranteeing same; also the name of each brand of fertilizer, fertilizer material, or chemical which they may desire to sell in Alabama, either by themselves or their agents, together with the guaranteed analysis thereof and the sources and amounts within ten percent of each material from which the nitrogen, phosphoric acid, potash and filler are derived; provided that the materials of nitrogen may be grouped into organic and inorganic sources. The term "filler" when used in this Article shall be understood to mean any foreign or "make-weight" material used in acid phosphate or in the manufacture of any mixed fertilizer. Provided, however, that any manufacturer, co-operative, or importer of commercial fertilizer who may desire to sell in Alabama such fertilizer or fertilizer material, shall first submit to the Department of Agriculture and Industries a sample or sample of all materials to be used as such "filler" and the Department of Agriculture and Industries shall determine whether such material or materials to be used as a "filler" are materials of known or recognized plant food value. And in the event such analysis or examination shows such material or materials not to be of known or recognized plant food value, the same shall be declared as "filler" and so indicated on the registration and analysis tag or label. And if such analysis and examination shows such material or materials to be of known or recognized plant food value, with the approval of and permission of the Commissioner of Agriculture, it shall not be necessary for such material to be declared on the registration or analysis tags or labels as "filler".

Section 13. That Section 152 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 152. **BRANDING OF FERTILIZER CONTAINER.**--Every bag, barrel or package of commercial fertilizer sold or distributed within this State, shall have affixed thereto a tag or label containing a legible and plainly printed statement in the English language, clearly and truly certifying the following information in the order indicated. (1) Net weight of each bag, barrel or package in pounds; (2) Brand and name or trade mark; (3) Guaranteed chemical analysis, giving (a) The minimum percentage of nitrogen and the sources and within ten per cent of the

amount of the source in the form of organic materials (such as fish scrap, animal tankage, cotton seed meal, etc.) and the source and within ten percent of the amount of the source in the form of inorganic materials (such as nitrate of soda and sulphate of ammonia), (b) The minimum percentage of available phosphoric acid and the sources and within ten percent of the amount of each material from which the available phosphoric acid is obtained, (c) The minimum percentage of potash and the sources and within ten percent of the amount of each source of potash; (4) The sources and within ten percent of the amount of filler; (5) The total pounds of available plant food; (6) The percent of nitrogen, available phosphoric acid and potash in complete fertilizer shall be stated in even or whole numbers; (7) The name and address of manufacturer, co-operative or importer. There shall be no objection to the printing of the above information on bags, barrels and packages by the manufacturer, co-operative or importer, however, this is not required. In bone meal, tankage or other products where the phosphoric acid is not available to laboratory methods, but becomes available on the decomposition of the products of the soil, the phosphoric acid shall be claimed as total phosphoric acid unless it is desired to claim available phosphoric acid also, in which case, the guarantee must take the form above set forth. Bone meal and tankage shall be reduced to a degree of fineness and take such form as is approved by the Commissioner. The term "available phosphoric acid" as used in this Article, shall be held to consist of the sum of "water soluble" and "citrate soluble" phosphoric acid; provided, that the term "available phosphoric acid" as applied to "basis slag phosphates" shall be held to denote such phosphoric acid as is found available by laboratory tests by the use of the modified Wagner Citric Acid Method, as adopted by the Association of Official Agricultural Chemists, and such method of analysis shall be employed in the official analysis of all samples of basic slag phosphate collected under the provisions of this Article.

Section 14. That Section 153 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 153. COMPLETE FERTILIZER STANDARD.--No complete fertilizer, acid phosphate with potash, nitrogen with acid phosphate, or plain acid phosphate, shall be sold in this State which contains less than sixteen percent plant food; namely, nitrogen and potash, available phosphoric acid, either singly or in combination; provided, that no complete fertilizer or nitrogen with acid phosphate, shall be sold in this State which contains less than three and no-one-hundredths (3.00%) percent of nitrogen.

Section 15. That Section 249 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 249. MISDEMEANOR TO SELL OR USE NON-STANDARD BOTTLES.--Any manufacturer or dealer who



sells or offers to sell milk or cream bottles to be used in the State that do not comply as to size and marking with the provisions of this Article, shall suffer a penalty of Five Hundred (\$500.00) Dollars, to be recovered by the Attorney General of the State in an action against the offender's bondsman, to be brought in the name of the State in the Circuit Court of Montgomery County, Alabama. Any dealer who offers for sale or who uses, for the purpose of selling milk or cream, jars, or bottles that do not comply with the requirements of this Article as to markings and capacity, shall be guilty of offering for sale or using a false or insufficient measure.

Section 16. That Section 380 of the "Agriculture Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 380. BOARD OF EXAMINERS FOR COTTON CLASSERS.—The Commissioner shall appoint three competent persons, who are licensed as graders of cotton by the Secretary of Agriculture of the United States or by the Board of Agriculture and attested by the Commissioner of Agriculture as provided for in Article 33 of the Agricultural Code, and who are experienced staplers of cotton, who shall constitute a Board of Examiners, whose duty it shall be to examine applicants for license as public cotton classers. Said Board shall assemble at such times and places as they may be called together by the Commissioner for the purpose of examining applicants for license as public cotton classers.

Section 17. That Section 388 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 388. PUBLIC WAREHOUSES.—All buildings, structures or other protected enclosures used for the storage of cotton or other articles of value for the public, for compensation or without compensation, and all buildings, structures or other protected enclosures for the storage of cotton or other articles of value where a statement is issued acknowledging the receipt of the article of goods stored, and undertaking to deliver the same, are hereby declared to be public warehouses. All such warehouses shall be under the supervision of the Commissioner of Agriculture and Industries, whose duty it shall be to enforce the requirements of the law and the rules and regulations promulgated by the State Board of Agriculture, relative to public warehouses.

Section 18. That Section 391 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 391. APPLICATION FOR LICENSE.—Upon the filing of an application with the Commissioner to secure a permit for the operation of a public warehouse, the Commissioner, or his duly authorized agent, shall make such investigation as necessary to ascertain whether or not the statements contained in such application are true and correct, whether or not the building, structure or protected enclosure is reasonably suited or ade-

quate for the purpose for which it is intended to be used, and whether or not there has been a compliance with all conditions as required by the law and the rules and regulations of the State Board of Agriculture relative to public warehouses. The Commissioner may investigate and consider the responsibility, the reliability and qualifications, as well as the capacity of the person or persons filing with him an application for a permit to operate a public warehouse, both with reference to the person or persons applying for such permit and the person who is shown in said application as the person authorized to sign receipts for said warehouse.

Section 19. That Section 398 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 398. INVESTIGATION OF COMPLAINT AGAINST WAREHOUSE.—Upon the filing of a complaint in writing by any person with the Commissioner, setting forth a violation of the laws or rules and regulations relating to the operation of a public warehouse, or setting forth that the warehouse building structure or protected enclosure is not reasonably suitable or adequate for the purpose for which it is used; or setting forth facts showing that there is a shortage of the articles which have been stored in said warehouse; or setting forth any other facts showing that the interests of the persons who have stored or who may store, articles in such warehouse are jeopardized, or are not properly safeguarded and protected, or setting forth facts showing that a public warehouse is being operated without having complied with the laws or rules and regulations relating to the operation of a public warehouse; or where such facts are ascertained by the Commissioner by an investigation upon his own initiative or otherwise, the Commissioner must make investigation to ascertain whether or not the facts alleged in said complaint are true, or whether or not there is reasonable cause to believe said facts to be true.

Section 20. That Section 399 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 399. HEARING BEFORE STATE BOARD OF AGRICULTURE.—In the event the Commissioner is of the opinion that a condition exists which would jeopardize the interest of such persons patronizing, or who may patronize, a public warehouse, if said public warehouse was conducted either at the place, or under the management, or in the manner that it had been conducted, or that a public warehouse is being operated without having complied with the laws or rules and regulations relating to the operation of a public warehouse, he shall have convened the State Board of Agriculture for the purpose of considering what action should be taken relative to said warehouse. It will be the duty of the Commissioner to give notice of the time and place of the meet-

ing of said Board to the persons conducting said warehouse. Upon said hearing before the State Board of Agriculture, the Commissioner shall make a statement relative to his finding, and the facts on which such finding is based, and the person operating the warehouse shall also have the right to be heard by self or counsel at such investigation. The State Board of Agriculture in such case shall have the authority to compel the attendance of witnesses by issuing a subpoena signed by the chief clerk of the Department, which subpoena may be served by any sheriff or law enforcement officer. Such witness shall be entitled to be paid from the Agricultural Department Fund Three (\$3.00) Dollars for each day in coming to and going from said investigation, and each day spent in attendance at such investigation, and five cents for each mile traveled, coming to and going from said investigation. The State Board of Agriculture shall be permitted to pay only witnesses subpoenaed in behalf of the findings of the Commissioner, unless it is ascertained that the warehouseman has not violated the law or any rules or regulations relating to public warehouses, or has not conducted his business in such manner as to jeopardise the interest of the public.

Section 21. That Section 401 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 401. WHEN STATE BOARD OF AGRICULTURE MAY TAKE CHARGE.—The State Board of Agriculture shall have the authority, in the event it finds it necessary upon such investigation for the purpose of protecting the public interest, to revoke the permit to operate said public warehouse in any case where a permit has been issued, to take charge of the operation and to provided for the operation of said warehouse, whether operating with or without permit, for such time as may be necessary to protect the public interest, and to operate said warehouse under the control of the Commissioner, and require him to make provision, so far as practical, to in every way protect the public interest. It shall be the duty of the State Board of Agriculture if upon such investigation it is ascertained that such a shortage exists in the articles or goods stored in such warehouse as will jeopardize the interest of the public and those who are patronizing said public warehouse, or if it finds existing any other condition relating to such business as will jeopardize the interest of the public, to take charge of the same and operate, or provide for the operation and conduct of said warehouse, or shall make such disposition of the goods or articles stored therein as necessary to properly protect the public interest, and in any case wherein a permit has been issued to revoke the permit to operate said warehouse.

Section 22. That Section 402 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read

as follows: Section 402. ENJOINING ORDER OF STATE BOARD OF AGRICULTURE.—The State Board of Agriculture shall spread its finding in such investigation upon the records of said Board, and the findings of said Board shall become immediately effective unless enjoined by the Circuit Court of Montgomery County. No such order shall be enjoined until bond has been given by the person filing the injunction in a surety company authorized to do business in the State of Alabama in twice the amount of the probable injury that might result from the wrongful issuing of said writ, and conditioned as the law now provides relative to injunction bonds. Provided further that when the findings of the State Board of Agriculture show that a public warehouse is being operated without a bond as required for a public warehouseman, said injunction bond shall in no case be less than the amount required by the law and rules and regulations relating to bonds for public warehousemen, and conditioned to pay all damages and costs which any person may sustain by the suing out of such injunction or from the operation of said warehouse business after the filing of such injunction, if the same is dissolved. Upon the hearing of such injunction case, it shall be presumed that the findings of the Board are correct.

Section 23. That Section 407 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 407. FALSE STATEMENT IN APPLICATION; OPERATION WITHOUT PERMIT.—Any person making a false material statement in an application filed under this Article to secure a permit to operate a public warehouse shall be guilty of perjury and upon conviction shall be punished as now provided by law for the commission of such offense. Any person operating a public warehouse without a permit as provided in this Article shall be subject to a penalty of not over One Thousand (\$1,000.00) Dollars, which may be collected in a civil action instituted at the instance of the Governor, the Attorney General or the Commissioner. All moneys received from the collection of such penalty shall accrue to the Agricultural Department Fund. The provisions of this Section are cumulative and shall not be construed to affect or be in lieu of any other penalties or punishments provided by law.

Section 24. That Section 484 of the "Agricultural Code of Alabama", of 1927, be and the same is hereby amended so as to read as follows: Section 484. AGRICULTURAL FUND.—Wherever provision is made in this Code for the collection of any fee or license or the imposition of any fine or penalty for the violation of any provision of this Code without providing for the disposition of the proceeds derived therefrom, such proceeds shall accrue to the Agricultural Fund. The Agricultural Fund shall include all funds available from every source for the administration, enforce-

ment or making effective the purposes of the provisions of the laws included in the Agricultural Section of this Code. All such funds shall be paid into the State Treasury and be kept intact, liquid and in trust, subject only to the requisitions of the Department of Agriculture and Industries and shall not be subject to any allotment or proration of appropriations for the benefit of any other department, institution or other State agency, or for any other purposes, or for use in any other manner, than as provided in Section 488 of the "Agricultural Code of Alabama" as amended by this Act. The term "Agricultural Department Fund", whenever used in this Code, shall mean "Agricultural Fund."

Section 25. That Section 487 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 487. **PURPOSES FOR WHICH AGRICULTURAL FUND USED.**—The Agricultural Fund shall not be expended upon any work or activity of any department, institution, bureau, commission, board or other State agency, which work or activity has been recognized or defined in Article 4 of the "Agricultural Code of Alabama," which said Article contains a declaration of the field of work or activity of each agricultural function of the State, as the proper function of any agency other than that of the Department of Agriculture and Industries, or which is assigned, to any other such department, institution, bureau, commission board or other State agency than the Department of Agriculture and Industries, or which is not definitely assigned to and defined as a part of the proper work of said Department. Said fund shall be expended exclusively for the expenses of the regulatory control and administrative work of the Agricultural Section of the Department of Agriculture and Industries as that work is defined in said declaration of said field of work.

Section 26. That Section 488 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 488. **CONTROL OF AGRICULTURAL FUND.**—The Commissioner of Agriculture and Industries, with the approval of the State Board of Agriculture, shall use the Agricultural Fund in accordance with the provisions of law for the support and expense of the regulatory, control and administrative work of the Agricultural Section of the Department and in such manner as said Board deems will best effect the purposes of all laws included in said Agricultural Section. The Commissioner of Agriculture and Industries, with the approval of the State Board of Agriculture, shall direct the expenditure of said fund, it being the purpose hereof to fully vest exclusive, direct and effective, financial supervision and control over the use of said fund for the work and activities assigned to the Agricultural Section in the State Board of Agriculture.

Section 27. That Section 489 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 489. SALARIES AND EXPENSES.--The salaries and expenses of the Commissioner, members of the State Board of Agriculture, all employees of the Agricultural Section and other expenses of said Agricultural Section shall be payable from the Agricultural Fund, provided that the total amount paid in such salaries and expenses shall not exceed the funds in the Agricultural Fund. The State Board of Agriculture shall have full and final power to promulgate rules and regulations fixing the salaries and expenses of all employees of the Agricultural Section. Said Board may also, in its discretion, designate one employee of the Department as an Assistant to the Commissioner and fix his salary. Said expenses shall mean the necessary traveling expenses of the Commissioner and said employees, while engaged in the performance of their official duties. Said expenses shall include support, maintenance and transportation, necessary or incident to the performance of their official duties. Means of transportation may, in the discretion of said Board, be furnished by the Department, subject hereafter to the full and exclusive control and regulation of said Board, and such statements or affidavits as to their use by said employees as said Board may require, or by the employee under such rules and regulations as said Board may promulgate, which regulations and Statements or affidavits shall supersede all regulations, requirements of law as to statements or affidavits and law existing heretofore pertaining thereto. The provisions of this Section as to expenses shall also apply to experts and scientists when performing duties as provided in Section 30 of the "Agricultural Code of Alabama."

Section 28. That Section 490 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 490. EXPENSES, HOW PAID.--All expenses, incurred under the Agricultural Code of Alabama, as amended, for the operation of the Agricultural Section, shall be paid by warrants drawn by the State Auditor on the Agricultural Fund upon the requisition of the Commissioner. Said requisition shall be itemized and sworn to and accompanied by an itemized statement of expenses by any person in whose favor a warrant is to be drawn, verified by affidavit that such statement is correct and such amount is unpaid, with such other information or evidence as the Board may require. Thereupon a warrant or warrants shall be drawn by the State Auditor upon the Agricultural Fund of the State Treasury for the amounts so requisitioned.

Section 29. That Section 13 of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 13. ANNUAL REPORT, HANDBOOKS,

PAMPHLETS, ETC., PUBLISHING AND PRINTING OF.--The Commissioner with the approval of the State Board of Agriculture shall submit each year on or before the first day of December, or as early thereafter as practicable, to the Governor an annual report coving all operations of the Department of Agriculture and Industries, and the support, condition, progress and needs of agriculture throughout the State. Such annual report shall be printed, as now provided by law, in sufficient quantities for general distribution throughout the State, and for the actual exchange courtesies between the State Agricultural authorities. He shall publish, by and with the approval of the State Board of Agriculture, such handbooks, pamphlets, bulletins, notices, and information as in his judgment shall aid and promote the enforcement of the provisions of the Agricultural Code and the purposes of the Agricultural Section, the printing of which may be awarded by the Commissioner of Agriculture and Industries, under regulations of said Board, upon the competitive secret written bids of at least three printers in each case.

Section 30. That Section 27 of the "Agricultural Code of Alabama", of 1927, be and the same is hereby amended so as to read as follows: Section 27. MEETING OF THE STATE BOARD OF AGRICULTURE; PER DIEM AND EXPENSES.--The State Board of Agriculture shall hold its annual meetings each year at the office of the Commissioner on the second Tuesday in September. Other regular meetings shall be held on the second Tuesday in January, April and July, and such special meetings may be held as the duties and business of the Board may require. In case of the absence of the chairman, the Board shall elect a temporary chairman. The rules generally adopted by deliberative bodies for their government shall be observed by the Board. No motion or resolution shall be adopted without the concurrence of a majority of the whole Board. The appointive members of the State Board of Agriculture shall receive a per diem of Ten (\$10.00) Dollars per day, and actual expenses incurred in attending meetings and transacting the business of the Board, which expenses shall include support, maintenance and transportation necessary or incident to such duties; provided they shall not draw such per diem for more than twenty days in any fiscal year.

Section 31. CONSTRUCTION.--That if any provision of this Act or the application thereof to any person or circumstances shall be held by the Supreme Court of the State to be unconstitutional, such holding shall not affect any other provision of this Act, or the application of such provision to other persons or circumstances, it being the intent and purpose hereof that each provision hereof shall stand or fall on its own merits and that the judicial annulment for unconstitutionality of any provision hereof shall have no effect upon any other provision not so annulled.

Section 32. GENERAL PROVISIONS OF CODE MADE APPLICABLE TO THIS ACT.--The provisions of Article 1, Article 23 and Article 43 of the "Agricultural Code of Alabama," of 1927, and such other general provisions as are contained in said Code and applicable to the whole of said Code and not hereby repealed, shall be applicable to the provisions of this Act when not inconsistent or in conflict with the provisions of this Act.

Section 33. REPEAL OF CONFLICTING LAWS.--That all laws and parts of laws, general, special or private, in conflict with the terms and provisions of this Act are hereby repealed, and all existing laws or parts of laws applicable to the departments and agencies of the State generally and to the Department of Agriculture and Industries, the State Board of Agriculture or the Commissioner of Agriculture and Industries, in conflict with the terms and provisions of this Act are hereby repealed in so far as they are applicable to the Department of Agriculture and Industries, the Board of Agriculture or the Commissioner of Agriculture and Industries.

Section 34. EFFECTIVE DATE.--This Act shall take effect and become operative immediately upon its passage and approval by the Governor.

Approved January 31, 1935.

No. 14)

(H. 28—Lusk

### AN ACT

To provide that the warrants and/or other instruments issued under the authority of Article XXIII of the Constitution, and an Act "To authorize and provide for the issuance, sale, and/or exchange of interest bearing warrants and/or other interest bearing instruments of the State of Alabama, etc." Approved April 17, 1933, shall be known and designated as "Warrant Refunding Bonds" of the State of Alabama; to provide for the exchange of such warrant refunding bonds of denominations less than one thousand dollars in the principal sum of one thousand dollars for a warrant refunding bond of like tenor and effect in the denomination of one thousand dollars; to provide that the warrant refunding bonds so exchanged shall be signed by the Governor, State Comptroller, State Treasurer and have attached thereto attested by the Secretary of State the Great Seal of the State of Alabama; to provide for a charge for each exchange; to provide that the State Treasurer shall be the custodian of all warrant refunding bonds surrendered for exchange, for the registration, cancellation and destruction thereof and that the holders of all warrant refunding bonds received in exchange shall be entitled to all the rights, privileges and exemptions of holders of the original issue of such bonds.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the bonds executed, issued, and sold or exchanged by the Warrant Commission under the authority of an



amendment to Section 213 of the Constitution of Alabama, known and designated as Article XXIII and an Act "To authorize and provide for the issuance, sale and/or exchange of interest bearing warrants and/or other interest bearing instruments of the State of Alabama, etc." approved April 17, 1933, shall hereafter be known and designated as "Warrant Refunding Bonds" of the State of Alabama.

Section 2. Whenever the holder of Warrant Refunding Bonds of the State of Alabama of denominations less than One Thousand Dollars (\$1,000.00) shall present such Warrant Refunding Bonds in the principal sum of One Thousand Dollars (\$1,000.00) to the State Treasurer such holder shall be entitled to exchange the same for a Warrant Refunding Bond of like tenor and effect in the denomination of One Thousand Dollars (\$1,000.00). Such bonds so issued shall have attached thereto interest coupons evidencing the interest of the same value and maturities for the unpaid interest on the bonds surrendered. The letter prefix and the serial number of the bonds for which the new bond is exchanged shall be endorsed on new bonds.

Section 3. Such Warrant Refunding Bond in the denomination of One Thousand Dollars exchanged for a like amount for those of less than One Thousand Dollars denomination shall be signed by the Governor, State Comptroller and State Treasurer and shall have attached thereto, attested by the Secretary of State, the Great Seal of the State of Alabama. Coupons shall be numbered and signed by the State Treasurer; provided, however, that the facsimile copy of the Treasurer's signature upon the interest coupons may be lithographed in lieu of signing the same.

Section 4. All registered Warrant Refunding Bonds surrendered for exchange for a Warrant Refunding Bond of One Thousand Dollars denomination shall be accompanied by a written assignment thereof duly acknowledged or approved.

Section 5. For the exchange herein provided the State Treasurer shall make a charge of fifty cents (50c) per One Thousand Dollars (\$1,000.00).

Section 6. The State Treasurer shall be the custodian of all Warrant Refunding Bonds and coupons thereon surrendered for exchange under the provisions of this Act, which must be cancelled; and he must register them in a book kept for that purpose in such manner as to show a full and complete identification by date, number, amount, rate of interest, time and place of payment, and if registered in whose name and to whom transferred and such register shall be carefully preserved. Such Warrant Refunding Bonds when so cancelled and the record above provided for made, shall be destroyed by burning, by the State Treasurer, in the presence of the Governor and the Attorney General, and entry thereof shall be made on the books of the State Treasurer, as to

number, amount, character and denomination of the Warrant Refunding Bonds so destroyed, and the Treasurer, Governor and Attorney General, shall certify as to the correctness of the entries so made upon the books of the State Treasurer.

Section 7. All Warrant Refunding Bonds issued under the authority of this Act and exchanged for Warrant Refunding Bonds of denominations less than One Thousand Dollars shall in all respects be held and treated as if originally issued and delivered and held under the amendment to the Constitution of Alabama and the Act referred to in Section 1 hereof and the holders shall be entitled to all of the rights, privileges, exemptions therein provided for.

Approved February 5, 1935.

No. 15)

(H. 68—Welch

### AN ACT

To permit State banks now or hereafter having a combined paid-in capital and paid-in or earned surplus of more than one million dollars and located in counties having a population according to the last or any subsequent decennial Federal census in excess of two hundred and fifty thousand, to establish, maintain and operate branch banks, branch offices, branch agencies, additional offices or branch places of business for the receipt of deposits, payment of checks or lending of money by and with the approval of the Superintendent of Banks.

*Be it enacted by the Legislature of Alabama:*

Sec. 1. That from and after the approval of this Act any state bank, whether incorporated or unincorporated, within this State, now or hereafter having a combined paid-in capital and paid-in or earned surplus of more than one million dollars and situated in a county of which the population according to the last or any subsequent decennial Federal census was in excess of two hundred and fifty thousand, shall have power to establish, maintain and operate, within the limits of the county wherein the principal place of business of such bank is situated, one or more branch banks, branch offices, branch agencies, additional offices or branch places of business for the receipt of deposits, payment of checks or lending of money, provided that only one such branch shall be so established, maintained and operated with respect to each two hundred fifty thousand dollars by which the amount of combined paid-in capital and paid-in or earned surplus of such bank exceeds one million dollars and provided further that such bank, before the establishment of any such branch or branches, first secure the written consent thereto of the State Superintendent of Banks.

Approved January 29, 1935.

No. 16)

(S. 24—Walton)

## AN ACT

To create a State Tax Commission of three members; to provide for their appointment, to define their duties and powers, and to fix their salaries.

*Be it enacted by the Legislature of Alabama:*

Section 1. That there is hereby created a State Tax Commission of three members to be appointed by the Governor and to hold at the pleasure of the Governor.

Section 2. That in making this appointment the Governor shall designate who shall be President of the State Tax Commission and who shall be the Associate members.

Section 3. The duties and powers of the State Tax Commission shall be the duties and powers conferred by law upon the State Tax Commission and such other duties and powers as may be hereafter conferred.

Section 4. That the salaries of the members of the State Tax Commission shall be thirty-six hundred dollars per year (\$3,600.00) payable monthly out of the State Treasury, as other salaries are now paid.

Section 5. That all laws and parts of laws in conflict with the provisions of this Act be and the same are hereby expressly repealed.

Approved January 30, 1935.

No. 19)

(H. 88—Harrison)

## AN ACT

To impose an excise tax in addition to any and all other excise taxes now imposed by law on persons, corporations, co-partnerships, companies, agencies or associations engaged in selling, distributing, refining, storing, or withdrawing from storage for any purpose whatsoever gasoline or other liquid motor fuels or devices or substitutes therefor in this State; and providing for the collection and payment of such tax; and for the examination of the books and records of any persons, corporations, co-partnerships, companies, agencies or associations engaged in selling, distributing, refining, storing or withdrawing from storage for any purpose whatsoever gasoline or other liquid motor fuels or devices or substitutes therefor in this State; providing a penalty for any false statements made in making reports to the State Tax Commission; providing for the distribution of the funds derived therefrom, and the use to which such funds may be put, and providing for the enforcement of this Act and fixing a penalty for violation of any of the provisions hereof; and to repeal an Act approved on the 27th., day of July, 1931, entitled: "An Act to impose, for the use and purpose of supervising, preserving, maintaining, constructing and regulating the use of public roads and bridges, an excise tax on all persons, companies, agencies, corporations and associa-

tions who sell, distribute, store or draw from storage for any purpose whatsoever, gasoline or any other liquid motor fuels or devices of any substitutes therefor within the State of Alabama; providing for the collection of such excise tax and the payment of same into the State Treasury to the Credit of the State Highway Department for the public road and bridge fund; providing for the enforcement of this Act and fixing a penalty for the violation of the provisions hereof; providing that the said excise tax so imposed shall be in addition to all other excise tax now imposed by law; and providing that freight agents of railroads and all agents of all transportation companies operating within the State of Alabama and who transport motor fuels, shall report to the State Tax Commission all shipments of gasoline or any substitutes therefor, receive at any of their stations within the State," And to repeal an Act approved November 5th, 1932, entitled: "An Act to impose an excise tax in addition to any and all other excise taxes now imposed by law on persons, corporations, co-partnerships, companies, agencies or associations engaged in selling, distributing, refining, storing, or withdrawing from storage for any purpose whatsoever gasoline or other liquid motor fuels or devices or substitutes therefor in this State; and providing for the collection and payment of such tax; and for the examination of the books and records of any persons, corporations, co-partnerships, companies, agencies or associations engaged in selling, distributing, refining, storing or withdrawing from storage for any purpose whatsoever gasoline or other liquid motor fuels or devices or substitutes therefor in this State; providing a penalty for any false statements made in making reports to the State Tax Commission; providing for the distribution of the funds derived therefrom, and the use to which such funds may be put, and providing for the enforcement of this Act and fixing a penalty for violation of any of the provisions hereof."

*Be it enacted by the Legislature of Alabama:*

Section 1. As used in this Act, the term "gasoline" shall include gasoline, naphtha and other liquid motor fuels or any devices or substitutes therefor, commonly used in internal combustion engines; provided, however, that nothing contained in this Act shall be held to apply to those products known commercially as "kerosene oil", "fuel oil" or "crude oil" used for lighting or heating purposes. The word "person" means and includes persons, corporations, co-partnerships, companies, agencies or associations, singular or plural. The term "distributor" shall include any person who engages in the selling of gasoline in this State by wholesale domestic trade, but shall not apply to any transaction by such distributor in interstate commerce. The word "refiner" shall include any person who manufactures, distills, blends, compounds or mixes any one or more products in the production of a liquid motor fuel as herein defined. The term "retail dealer" shall include any person herein defined as distributor who is also engaged in the selling of gasoline in this State at any place in this State in broken quantities. The term "storer" as herein used shall include any person who ships or causes to be shipped, gasoline into this State in tank or drum quantities and stores the same and withdraws or uses the same for any purpose.

Section 2. Every distributor, refiner, retail dealer or storer of gasoline as herein defined shall pay an excise tax of two cents (2¢) per gallon upon the selling, distributing, or withdrawing from storage for any use gasoline as herein defined in this State, provided however that this excise tax shall not be levied upon the sale of gasoline in interstate commerce, and provided further that where the excise tax of two cents (2¢) per gallon upon the sale of such gasoline shall have been paid by the distributor, refiner, or by retail dealer or storer such payment shall be sufficient, the intention being that the tax shall be paid but once.

Section 3. The excise tax imposed by Section 2 hereof shall apply to persons, firms, corporations, dealers, refiners, or distributors storing gasoline and distributing the same or allowing the same to be withdrawn from storage whether such withdrawals be for sale or other use; provided that "sellers" of gasoline and its substitutes paying the tax herein provided may pay the same computed and paid on the basis of their sales as hereinafter required and refiners, storers and distributors shall compute and pay this tax on the basis of their withdrawals or distributions.

Section 4. On or before the twentieth day of each month after this act shall have taken effect, every person upon whom this excise tax is levied shall render to the State Tax Commission on forms prescribed by such Commission a true and correct statement of all sales and withdrawals of gasoline made by him or them during the next preceding month, liable for the excise tax herein prescribed, and shall furnish the said Commission such additional information as such Commission may require upon blanks to be formulated and furnished by said Commission, and at the time of making such report shall pay to the State Tax Commission an amount of money equal to the excise herein laid.

Section 5. The Statement herein required to be made by the distributor, refiner, storer or retail dealer shall be sworn to before some officer authorized to administer oaths and any false or fraudulent statement sworn to shall constitute perjury and upon conviction thereof the person so convicted shall be punished as provided by Section 5161, of the Code of Alabama.

Section 6. All distributors, refiners, storers or retail dealers shall keep, for not less than two years, within the State of Alabama at some certain place or office such books, documents or papers as will clearly show the amount of sale or withdrawal of gasoline made in this State covered by this Act.

Section 7. Within thirty (30) days after the passage of this Act every distributor, refiner, storer, or retail dealer engaged in the sale of gasoline or withdrawal from storage or distribution of gasoline, shall make a report on blanks furnished by the State Tax Commission to the State Tax Commission showing the place and post office address at which he is engaged in distributing, refining,

selling at retail, or withdrawing from storage gasoline, which information shall be entered by the State Tax Commission on a book kept for that purpose. After this Act becomes effective, no person shall engage in selling as a distributor or retail dealer, refining or withdrawing from storage, any gasoline covered by the provisions of this Act in this State until he shall have made such report to the State Tax Commission.

Section 8. If any distributor, refiner, storer or retail dealer in gasoline in this State covered by the provisions of this Act shall fail to make the reports or any of them, to the State Tax Commission as herein required, or shall fail to keep the records required by Section 6 hereof, such distributor, refiner, storer or retail dealer shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$50.00 nor more than \$300.00 for such offense.

Section 9. It shall be the duty of the State Tax Commission to enforce the provisions of this Act and the State Tax Commission shall have the right itself or by any of its members or its agents to examine the books, records and accounts of every such distributor, refiner, storer or retail dealer in gasoline covered by the provisions of this Act. The State Tax Commission shall have the right itself or its agents to examine the records, accounts, books and invoices of any retail dealer who makes purchases from an Alabama distributor, refiner, storer or other retail dealer on a basis of "tax paid"; when, in the opinion of the Commission, such examination is necessary to determine if such gasoline sold in this State has been reported to the gasoline tax department of the State Tax Commission and the tax thereon paid. Any dealer making purchases on the basis of "tax paid" who fails to keep the records as herein required, or refuses to permit the duly authorized agent of the State Tax Commission to examine such records shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00) for each such offense.

Section 10. Subject to the provisions of Section 17 of this Act the proceeds of the excise tax herein imposed by this Act, less the actual cost of the collection of same, shall, when collected be paid into the State Treasury to the credit of the Public Road and Bridge Fund to be used by the State Highway Commission, with the approval of the Governor, for the purpose of policing, supervising and maintaining such public roads and bridges as may now be constructed in the State and to hereafter police, construct, supervise and maintain public roads and bridges under authority and supervision of the State Highway Commission, as provided by law.

Section 11. The acceptance of any money paid for the excise tax provided for in this Act shall in no way preclude the collection of the money actually due, provided however that the money actually paid shall constitute credit against the money actually due.

Section 12. The forms for all statements and reports required under the provisions of this Act shall be prescribed and furnished by the State Tax Commission and the cost of the enforcement of this Act shall be paid out of the funds derived from the excise tax herein prescribed, upon a warrant of the State Comptroller upon a voucher of the Chairman of the Tax Commission, or the State Tax Commissioner and approved by the Governor.

Section 13. If any distributor, refiner, storer or retail dealer in gasoline covered by this Act shall fail to make the monthly returns prescribed herein and pay the excise tax hereby laid, on or before the 20th day of the month following sale, distribution or withdrawal, the State Tax Commission shall make return for such delinquent upon such information as it may reasonably obtain, assess the excise tax thereon, and add a penalty for failure to make such return and pay the tax herein laid of twenty-five percent (25%) of the tax due, to the amount as assessed by the Commission. If, in the opinion of the State Tax Commission, a good and sufficient cause or reason is shown for such delinquency, the State Tax Commission may remit the penalty, otherwise the penalty shall be paid.

Section 14. Within five (5) days after the State Tax Commission shall adjudge a distributor, refiner, storer or retail dealer in gasoline delinquent, such delinquent shall be notified by the State Tax Commission, by registered mail, to appear before the State Tax Commission and show cause, if any, why execution should not issue against the bond and property of such delinquent to satisfy the amount of tax and penalties due the State. If no showing is made within ten (10) days after notice is mailed, or if such showing is not satisfactory to the State Tax Commission, execution shall be issued by the State Tax Commission for the collection of such tax and penalties, directed to any Sheriff of the State of Alabama, who shall proceed to collect same in the manner now provided by law for the collection of delinquent tax by the County Tax Collectors and make return of such executions to the State Tax Commission. The tax and all penalties herein provided for shall be held as a debt payable to the State of Alabama by the person against whom the same shall be charged and all such tax and penalties shall be a superior lien against all the property in this State of the person charged therewith. In the enforcement of collection of delinquent taxes and penalties under the provisions of this Section the Sheriff shall first proceed against the bond of such delinquent and if such bond is insufficient to cover the tax and penalties, then the Sheriff shall proceed against the property of such delinquent.

Section 15. Any distributor, refiner, storer or retail dealer who shall violate any of the provisions of this Act may be restrained and the proper prosecution instituted in the name of the State of Alabama by its Attorney General or under his direction

by any Circuit Solicitor of the State, or an attorney employed by the State Tax Commission with the approval of the Governor from distributing, refining, selling or withdrawing from storage any gasoline, the sale or withdrawal of which is taxable under this Act, until such person shall have complied with the provisions of this Act.

Section 16. All other State excise and inspection taxes on the sale of gasoline imposed before the passage of this Act, except those expressly repealed herein, shall remain in full force and effect.

Section 17. That the proceeds from one cent of the tax herein levied shall be equally divided among the sixty-seven counties of the State of Alabama monthly as collected, less the actual cost of collecting the same, payment to be made to the County Treasurer or Depository of said counties on the 10th., day of each month of the year; and said funds shall be used by the several counties of the State exclusively for the construction, maintenance, supervision and policing of the public roads and bridges in the respective counties; provided, however, that the Board of Revenue or other such governing body of a county may, at any time within twelve months from the passage of this Act, use at their option, subject to the approval of the Governor of the State of Alabama, any of such proceeds as collected for the purpose of matching any United States Government funds on any fair and reasonable basis that may be expended in said county.

Section 18. That the proceeds from one cent of said tax herein levied may be used by the Governor of the State of Alabama at any time within twelve months from the approval of this Act for the purpose of matching any United States Government funds on any fair and reasonable basis.

Section 19. That the levy of the one cent tax as provided and levied under the provisions of an act entitled "An Act to impose, for the use and purpose of supervising, preserving, maintaining, constructing and regulating the use of public roads, and bridges in the State of Alabama, and to maintain and supervise State Convicts while working upon such roads and bridges, an excise tax on all persons, companies, agencies, corporations and association who sell, distribute, store or draw from storage for any purpose whatsoever, gasoline or any other liquid motor fuels or devices or any substitutes therefor within the State of Alabama; providing for the collection of such excise tax and the payment of same into the State Treasury to the credit of the State Highway Department for the public road and bridge funds; providing for the enforcement of this act and fixing a penalty for the violation of the provisions hereof; providing that the said excise tax so imposed shall be in addition to all other excise tax now imposed by law; and providing that freight agents of railroads and all agents of all transportation companies operating within the State of Alabama and who trans-



port motor fuels, shall report to the State Tax Commission all shipments of gasoline or any substitutes therefor, receive at any of their stations within the State. Approved July 27, 1931," be and the same is hereby suspended as of and on February 1, 1935, and all other provisions of said act shall remain and be in full force and effect until the full payment of the amount due thereunder is paid in full and thereafter said act is hereby repealed. That the levy of the one cent tax as provided and levied under the provision of an act entitled "An Act to impose an excise tax in addition to any and all other excise taxes now imposed by law on persons, corporations, co-partnerships, companies, agencies or associations engaged in selling, distributing, refining, storing, or withdrawing from storage for any purpose whatsoever gasoline or other liquid motor fuels or devices or substitutes therefor in this state; and providing for the collection and payment of such tax; and for the examination of the books and records of any persons, corporations, co-partnerships, companies, agencies or associations engaged in selling, distributing, refining, storing or withdrawing from storage for any purpose whatsoever gasoline or other liquid motor fuels or devices or substitutes therefor in this state; providing a penalty for any false statements made in making reports to the State Tax Commission; providing for the distribution of the funds derived therefrom, and the use to which such funds may be put; and providing for the enforcement of this act and fixing a penalty for violation of any of the provisions hereof. Approved November 5, 1932", be and the same is hereby suspended as of and on February 1, 1935, and all other provisions of said act shall remain and be in full force and effect until the full payment of the amount due thereunder is paid in full and thereafter said Act is hereby repealed.

Section 20. Should any part of this Act be declared unconstitutional it shall not invalidate the remainder thereof.

Section 21. This Act shall take effect on the 31st., day of January, 1935.

Approved January 31. 1935.

No. 20)

(H. 7—Calhoun

### AN ACT

To amend Section 8251 of Article 11 of the Code of Alabama 1923, with reference to Guardian and Ward.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 8251, Article 11, of the Code of Alabama, 1923, be, and the same is hereby amended so as to read as follows: 8251. The funds of a minor or person of unsound mind,

not having a general guardian; not exceeding in amount two hundred dollars, may be paid to the Judge of Probate of the county in which said minor or person of unsound mind resides, if a resident of the State, or if a nonresident, to the judge of probate or like officer of the County in which the debtor or creditor resides; and the person from whom said sum is due may discharge himself by making such payment.

Approved February 5, 1935.

No. 21)

(H. 42—Coleman

### AN ACT

To make an appropriation of \$500.00, or so much as may be necessary out of any funds in the treasury, not otherwise appropriated, to defray the expenses incurred by the House in the contest of the election of Norman C. Wilkes to the House of Representatives.

*Be it enacted by the Legislature of Alabama:*

Section 1. That there is hereby appropriated out of any funds in the state treasury, not otherwise appropriated, the sum of \$500.00, or as much thereof as may be necessary, to defray the expenses of the House of Representatives in the present session of the Legislature incurred by the House in the contest of the election of Norman C. Wilkes as member of the House of Representatives.

Approved February 2, 1935.

No. 22)

(H. 56—Lusk

### AN ACT

To make appropriation of Two Hundred and Fifty (\$250,000.00) Thousand Dollars, or so much thereof as may be necessary, out of any funds in the State Treasury not otherwise appropriated, to defray the expenses of the present session of the Legislature.

*Be it enacted by the Legislature of Alabama:*

Section 1. That there is hereby appropriated, out of any funds in the State Treasury not otherwise appropriated the sum of Two Hundred and Fifty Thousand Dollars (\$250,000.00), or so much thereof as may be necessary, to defray the expenses of the present session of the Legislature.

Approved February 5, 1935.

No. 23)

(H. 81—Toomer

## AN ACT

To amend Sections 989, 992, 993, 995, 1005 and 1007 of the Code of Alabama of 1923.

WHEREAS the President and the Congress of the United States have instituted effective measures through legislation and executive action designed to aid the various states and their citizens through furnishing employment in the development of forests and parks and in the prevention of soil erosion, which measures form an important part of the program of the United States for recovery from prevailing economic conditions, and

WHEREAS the operation of the measures so instituted by the President and the Congress requires administrative and legislative cooperation on the part of the States in order that the latter may qualify for the benefits provided through said measures, and certain changes in the laws of Alabama are necessary to enable the State to more adequately meet the requirements demanded before such benefits can be fully obtained in Alabama.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Sections 989, 992, 993, 995, 1005 and 1007 of the Code of Alabama of 1923 be amended to read as follows: 989. DUTIES OF COMMISSION. The Commission shall inquire into and make an annual report upon the forest conditions in Alabama with reference to the development, protection and use of forests; the effects of the deterioration or destruction of forests upon the general welfare of the State; the economic, social and cultural benefits to be derived from the existence and operation of forests, and the proper use of lands not more valuable for purposes other than timber growth, including recommendations to the public generally as to reforestation, the protection of forests against harmful agencies, approved methods of extraction and utilization of forest products, the general management of forests and woodlands and the use of forests and trees for public and private purposes. This report shall be made to the Governor, and shall be given such distribution as the Commission, in its discretion, may deem feasible. The Commission shall report to each regular session of the Legislature the results of its investigations, and shall recommend necessary legislation, if any, with reference to forestry and other interests devolving upon it by law. It shall give such advice, assistance and cooperation as may be practicable to private owners, and promote, so far as it may be able, a proper appreciation in this State, among all classes of the population, of the benefits to be derived from forest culture, preservation and use. The Commission may take such measures as may be reasonable and practicable to prevent and suppress forest fires and other influences harmful to forest growth, and may apply such parts of the State Forestry Fund as may be necessary to such purposes and to providing such

systems of control as it may establish, either independently or in cooperation with the Federal Government and other agencies, public or private. The Commission shall be the sole State cooperating agency in joint work in the promotion and development of forestry, among all classes of land ownerships in the State, in which both the State and the Federal Government may have financial participation, and shall perform such other duties as may be imposed upon it by law. The Commission, for the purpose of establishing, developing and maintaining State Forests and State Parks may acquire land by donation, purchase or condemnation and for these purposes may use such funds as may be available to it and not otherwise obligated, and shall have sole charge of all State Forests and State Parks, and shall have authority to make such rules and regulations for the administration, occupancy and use of said State Forests and State Parks as it shall find necessary. The Commission shall select from unused lands owned absolutely by the State, including real estate sold for taxes and purchased by the State and which shall have been in the title of the State for a period exceeding the period allowed for redemption when purchased by any purchaser other than the State, tracts, parcels or areas which it shall have determined to be suitable for State Forests or State Parks and, upon the approval of the Governor, such tracts, parcels or areas shall thereafter be devoted permanently to the purposes of State Forests or State Parks and shall not be sold or alienated from the title of the State or otherwise disposed of by the State except upon the recommendation of the Commission or as otherwise provided in this Section, and any State agency having had authority for the sale or other disposition of such tracts, parcels or areas prior to their selection as State Forests or State Parks shall enter upon its records, upon notice from the Commission, appropriate notations or entries as though the said tracts, parcels or areas had been sold and to the effect that they are no longer available for alienation from State title through said agency. The Commission is authorized to make such rules and regulations for the development, maintenance, management and operation of forest or park enterprises entered upon by the State, counties and municipalities with view to securing loans or other financial cooperation from any agencies of the Federal Government as will enable such State, Counties and municipalities to obtain such loans or other financial cooperation, and is further authorized to act in all particulars in behalf of the State in securing for the State, or any of its Departments, institutions or agencies, such loans or other financial cooperation. The Commission may employ such clerical and other assistants as may be necessary, and fix their compensation. The Commission of Forestry shall have custody, management and administration over all lands sold to the State for unpaid taxes, except as to the enforcement of Sections 3096 to 3098, inclusive, Sections 3100 to 3108, in-

clusive, and Sections 3128 to 3133 inclusive of the Code of Alabama of 1923, the enforcement of which sections is hereby placed with the State Tax Commission. Where any of the lands of the State, or of any department, institution or agency of the State, are in scattered or noncontiguous tracts, the State Commission of Forestry is authorized, subject to the approval of the Governor or of the executive officer of the department, institution or agency to which such lands pertain or which is vested with the management and administration of said lands, to exchange such tracts for others of equal value, privately or publicly owned, to the end that the lands of the State or of any of its departments, institutions or agencies may be better consolidated for economy and efficiency in administration, protection and use, and to do such other things as may be necessary to give full effect to this section and this article. 992.

**DEFERRED TAXATION ON AUXILIARY STATE FOREST TIMBER.** It is the declared policy of the State to encourage reforestation of cut-over lands, and timber culture generally, and, to that end, and in consideration of the public benefits arising therefrom, the timber growing on lands which shall hereafter be designated by the State Commission of Forestry as Auxiliary State Forests, under the provisions of this article, shall not be taxable or assessed for taxation by any authority from the time that said lands are so designated until they are withdrawn as Auxiliary State Forests, and only the land on which said timber grows may be taxed or assessed for taxation, as if the ownership of the timber growing thereon had been severed from the ownership of the land, provided that said land shall be appraised jointly by the State Tax Commission and the State Commission of Forestry, with view to its use for timber production purposes, such appraisal being made with due regard to the fact that the timber yields from such lands require a considerable period of years for maturing, and that the valuation determined by such appraisal for the purposes of taxation of the land independently of the timber shall not be increased during the continuance of such lands as Auxiliary State Forests; and provided further that when the land embraced within an Auxiliary State Forest does not exceed one hundred sixty acres the land shall not be taxed or assessed for taxation. 993.

**CONTRACT FOR DEFERRED TAXATION ON TIMBER; WHAT IT SHALL CONTAIN.** The Governor may, at its discretion, upon designation of any lands as Auxiliary State Forests, under the provisions of this chapter, on behalf of and in the name of the State of Alabama, enter into a contract, by and with the owner of said land, and the successors and assigns of said owner, the said covenant to run with the land that, in consideration of the devotion of said land to reforestation and of the public benefits arising therefrom, the timber growing on said land shall not be taxable, nor assessed for taxation, directly or indirectly, or by

any authority, until said lands are withdrawn as Auxiliary State Forests, and that only the land upon which said timber is grown may be taxed, or assessed for taxation, during said period, and that if said land is taxed or assessed for taxation, it shall be assessed and valued as if the ownership of the timber had been severed from the ownership of the land; provided that said land shall be appraised jointly by the State Tax Commission and the State Commission of Forestry, such appraisal being made with due regard to the fact that the timber yields from such lands require a considerable period of years for maturing, and that the valuation determined by such appraisal for the purposes of taxation of the land independently of the timber shall be the valuation of such lands upon and from the effective date of the approval of the contract and shall not be increased during the continuance of such lands as Auxiliary State Forests, and that if the land included under the contract does not exceed one hundred sixty acres the land shall not be taxed or assessed for taxation. It shall be agreed in said contract that the owner of said land will devote the same to forest culture and that no use shall be made of said land that will militate against the growth of the timber thereon; that the owner will use diligence in protecting the same against fire in accordance with rules established by the said Commission of Forestry and that the owner will not withdraw said lands as Auxiliary State Forests for a period of five years after the same are entered as such, and will not cut, turpentine, or otherwise utilize the timber thereon before the withdrawal of the same as Auxiliary State Forests, except in accordance with rules formulated by the said State Commission of Forestry, which rules and other rules mentioned herein, it is authorized and directed to make. Upon application of any owner of land comprised within Auxiliary State Forests heretofore established under contract of current effect, provisions authorized herein but not included in the original contract may, with the approval of the Governor, be included in a supplemental contract modifying the terms of the original contract. 995. TAX PAID ON WITHDRAWAL; AMOUNT OF. Upon the withdrawal of said lands, or any part of the same, as Auxiliary State Forests, the value of the timber thereon shall be appraised jointly by the State Tax Commission and the State Commission of Forestry as of the date of the withdrawal of said lands as Auxiliary State Forests, and the owner of the same shall then pay, as a privilege tax for the entry and withdrawal of said lands as Auxiliary State Forests, and in lieu of the annual ad valorem tax not assessed against said timber while entered as Auxiliary State Forests, a sum equal to eight percent of the value of the timber thereon at the time of its withdrawal, as appraised as herein provided. 1005. STATE FORESTRY FUND: WHAT CONSTITUTES. All occupation licenses or privilege taxes imposed by the

State for engaging in any business dealing with timber or timber products, and the receipts not to exceed fifty thousand dollars per annum derived from the sale and redemption of lands sold for taxes and purchased by the State and not already appropriated prior to the enactment hereof, but not the counties' share or part of such taxes or receipts, shall be separately reported by the officials collecting the same, and when paid into the Treasury shall be kept in a separate fund which shall be known as the State Forestry Fund, and which shall be used for no other purpose than for the administration of this Article and the payment of the appropriations herein made, and which, in view of the emergency character of various of the functions prescribed in this Article, shall not revert, as to unexpended balances, at the close of any fiscal year, but shall remain in said fund to enable the Commission to meet unexpected fire hazards and other emergencies incidental to carrying out the provisions of this Article. All fines and forfeitures arising under the provisions of this Article shall also be paid into said Forestry Fund. All moneys going into said Fund are appropriated to said State Commission of Forestry for the purpose of administering this Article. 1007. FOREST WARDENS: DUTIES OF. All sheriffs, deputy sheriffs, constables, marshals and such other persons as may be designated or appointed by the Governor or by the Commission of Forestry are hereby declared to be Forest Wardens and they shall report to the said State Commission of Forestry and to the State Forester, and to the Solicitor of the county or circuit in which the same occur, any violations of any provision of this chapter.

Section 2. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed.

Section 3. If any section or part hereof is held to be unconstitutional it shall not affect or destroy any other section or part hereof.

Section 4. This Act shall take effect from its passage.

Approved February 5, 1935.

No. 25)

(H. 91—Hendley

## AN ACT

To authorize the Governor to grant paroles or pardons in misdemeanor cases with or without payment of court costs in the case; and with or without application being made therefor by the person convicted; and with or without advertisement of intention to apply therefor being given; and to provide that if paroles or pardons are granted to persons now on temporary parole, the State shall not furnish them the clothing nor pay them the money provided by Sections 3650 and 3651 of the Code.

*Be it enacted by the Legislature of Alabama:*

Section I. The Governor may, after conviction, and not otherwise, grant a pardon or parole to any person convicted of a misdemeanor. The Governor, in his discretion, may grant the pardon or parole with or without the payment of the court costs in the case and either with or without a formal application being made therefor; and either with or without notice of intention to apply for pardon or parole being given as is now provided by law.

Section II. In all misdemeanor cases where parole has heretofore been granted conditioned upon the payment of court costs, or where temporary parole has been granted, the Governor may, in his discretion, give a pardon or permanent parole either with or without the payment of the court costs. Where parole or pardon is granted to a person who has heretofore been granted a parole conditioned upon payment of court costs or a temporary parole and is not in the penitentiary no clothes shall be furnished him nor money paid to him, as provided by Sections 3650 and 3651 of the Code of Alabama of 1923.

Section III. All laws or parts of laws in conflict with the provisions of this act are hereby repealed.

Section IV. This act shall become effective immediately upon its passage and approval by the Governor.

Approved February 1, 1935.

No. 26)

(H. 49—Cook

### AN ACT

To provide for establishing and maintaining a uniform system of accounting and reporting in the County offices in all counties of this State where officers are charged with the duty of receiving, disbursing and accounting for any public funds or other funds; by requiring the State Comptroller, with the approval of the State Auditor and Chief Examiner of Accounts, to prepare such forms of bookkeeping and accounting records, reports and other blank forms as may be necessary for the installation of such uniform accounting and reporting system, by prescribing such system to be the official system, of accounting and reporting to be used by such officers, by requiring such county officers to maintain and keep accounts and make reports according to such system, provide the method of changing such system, and by making it unlawful for any such officer to fail or refuse to keep the accounts of his office or to make required reports according to the official system as is hereby established, and to prescribe penalties and punishments for violation of the provisions of this Act.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the State Comptroller, with the approval of the State Auditor and Chief Examiner of Accounts, is hereby required to prepare as soon as practicable after the passage and ap-



proval of this Act such forms of bookkeeping and accounting books, records, reports, and other blank forms as may be necessary for the installation of a uniform system of accounting and reporting in and for the County offices of this State wherein the officers thereof are charged with any duties of receiving and disbursing public funds or other funds, and to transmit to such officers copies of such forms. The State Comptroller, with the approval of the State Auditor and the Chief Examiner of Accounts, may change or alter such forms from time to time as appears advisable to the State Auditor and the Chief Examiner of Accounts, having due regard in making such change, or changes, to the expense necessary in discarding the forms already on hand, and the use of forms as then prepared and required under this Act.

Section 2. That all such County officers shall, after the provisions of this Act become of full operation and effect, be required to keep the accounts and make reports of their respective office in full accordance with the system of accounting and reporting so established and on the forms and records prescribed by the State Comptroller.

Section 3. That the provisions of this Act shall become fully operative and effective and a Uniform System of Accounting and Reporting in County offices shall be established by October 1, 1936, and, after that date it shall be unlawful for any County officer to wilfully fail or refuse to keep the accounts of his office or to make required reports according to the system of accounting and reporting so established, which shall be the official system of Uniform Accounting and Reporting in County offices.

Section 4. That any County Officer violating any of the provisions of this Act shall be guilty of a misdemeanor and on conviction shall be fined not less than \$50.00 (fifty dollars) nor more than \$500.00 (five hundred dollars). A continued failure and/or refusal on the part of such officer, to comply with the provisions of this Act shall subject such officer, as a liability on his official bond for neglect of duty, to a penalty of not less than \$50.00 (fifty dollars) nor more than \$100.00 (one hundred dollars) per month for the period of such failure.

Section 5. That all laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

Approved February 8, 1935.

No. 27)

(H. 59—Harrison)

## AN ACT

To amend Article 20, containing Sections 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, and 193, pertaining to gasoline and other liquid motor fuels, of the Code of Laws for the State of Alabama, known as the "Agricultural Code of Alabama", of 1927, adopted as the Code of Laws for the State of Alabama, prepared in accordance with the provisions of an Act approved February 18, 1927, (H.273 - Goode), by an Act to adopt said Code of Laws, approved August 24, 1927, and which pertains to Agriculture and Industries and relating subjects which are administered by, concern or relate to the duties of the Commissioner of Agriculture and Industries, The Department of Agriculture and Industries, or the State Board of Agriculture.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Article Twenty, containing Sections 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, and 193, pertaining to gasoline and other liquid motor fuels, of the Code of Laws for the State of Alabama, known as the "Agricultural Code of Alabama," of 1927, adopted as the Code of Laws for the State of Alabama, prepared in accordance with the provisions of an Act approved February 18, 1927, (H. 273—Goode) by an Act to adopt said Code of Laws, approved August 24, 1927, and which pertains to Agriculture and Industries and relating subjects, which are administered by, concern or relate to the duties of Commissioner of Agriculture and Industries, The Department of Agriculture and Industries, and the State Board of Agriculture, be and the same is hereby amended to read as follows: Section 1. GUARANTEED LEGAL STANDARD.—Any person, firm or corporation selling, or offering for sale, or exchange, in the State of Alabama, any gasoline, benzine, naptha, or other liquid motor fuels, must label each tank car, tank, barrel, pump, or other container in which said gasoline, benzine, naptha, or other liquid motor fuels is contained or marketed with the words "guaranteed legal standards" and with the additional word or words "gasoline, benzine, naptha, Woco-Pep motor fuel" or other words to denote the character of the contents of such containers or packages. Each and all of said words shall be printed in letters not less than one-half inch in height.

Section 2.—STATEMENT FILED WITH AND PERMIT ISSUED BY COMMISSIONER.—Before offering gasoline, benzine, naptha or other liquid motor fuel for sale in or for importation into Alabama, the person, firm, association or corporation desiring to sell in or import into Alabama such products, must submit to the Commissioner of Agriculture and Industries a written application for a permit upon forms furnished by said Commissioner setting forth: First, the name and brand under which said gas-

oline, benzine, naptha or other liquid motor fuel is to be sold or imported, and in case said product is to be marketed in tanks, barrels, cans or other containers, the number of gallons, capacity of the containers in which it is to be put on the market and the name or names of the manufacturers or dealers; Second, a statement as to the distillation standard guaranteed for said gasoline, benzine, naptha or other liquid motor fuel, offered for sale in or for importation into Alabama. Such statement may simply set forth that the product complies with the legal standards as provided for under the provisions of this law, as amended, or in case a higher standard is claimed, a statement to that effect may be made giving the standard guaranteed. As soon as practicable after the receipt of said statement the Commissioner shall issue to said applicant a permit, provided said statement shows the products to be sold in or for importation into this State are equal to or above the minimum standard required in this State for such products. Such applicant shall pay to the Commissioner the sum of One (\$1.00) Dollar for each brand contained in the application for permit; provided that all such permits shall expire on September 30th of the fiscal year for which they were issued. This Section shall not apply to a retail dealer selling gasoline, benzine, naptha or other liquid motor fuel purchased from a person, firm or corporation who has complied with the provisions of this Act.

**Section 3.—HIGHER STANDARDS THAN REQUIRED.—**In the event that a higher standard than required by law is advertised for said product, the standard so advertised shall be printed in large characters and posted at the place of sale, and such advertisement and such posted notice shall be and constitute a guarantee to the purchaser of said product of the quality of the same.

**Section 4.—SAMPLING AND TESTING.—**It is the duty of the Commissioner from time to time to secure samples of such products sold or offered for sale in the State, and to determine whether or not said products are sold or offered for sale in correct measure claimed by the person, firm or corporation selling or offering same for sale and to determine whether the same is of legal standard and of the standard advertised. The Commissioner shall test or cause to be tested such samples as provided by the rules and regulations of the State Board of Agriculture and shall make a certificate of such test, copy of which certificate shall be furnished upon request by said Commissioner to the person, manufacturer or dealer from whom said product was obtained.

**Section 5.—RECORDS SUBJECT TO INSPECTION, PREMISES ENTERED TO ENFORCE LAW.—**Every person, firm or corporation selling in or importing into Alabama motor fuels shall keep a record of all such fuels purchased, received, sold, imported, delivered or used by him which shall include the number

of gallons so purchased, received, sold, imported, delivered or used, and the dates of such transactions, which records shall be preserved for a period of two years and which shall at all time during the business hours of the day be subject to inspection by the Commissioner of Agriculture and Industries or his agent. The Commissioner is authorized in person or by his agents to have free access to all premises, places of business, cars, vessels and parcels of whatsoever kind used in the transportation, importation, sale or storage of any gasoline, benzine, naptha, etc., or other liquid motor fuels. Whenever he or his agents find a violation of this Act they shall cause the violator to be prosecuted.

**Section 6.—DETERMINATION OF STANDARD.** — The State Board of Agriculture shall have the right and power to determine and adopt standards as to quality, purity, distillation test, heat producing properties, freedom from objectionable substances, and efficiency as a motor fuel for gasoline, benzine, naptha, or other liquid motor fuels and to make changes from time to time; provided, that such standards shall not be adopted until after a specified date when any person in interest may appear before the Board with reference to standards for such product or products. The Board shall prescribe the methods of tests to be used in determining whether or not such products are in compliance with such standards as shall be adopted as hereinbefore authorized. Said Board shall have authority to promulgate rules and regulations necessary to secure the safe handling of gasoline or other liquid motor fuels, and other such rules and regulations not inconsistent with the provisions hereof as in their judgment may be necessary to the proper enforcement of Article 20 as amended.

**Section 7.—SALE OF NON-STANDARD GASOLINE PROHIBITED.**—No person shall sell, offer or expose for sale or exchange any gasoline, benzine, naptha or other liquid motor fuels, which fail to comply with the standards adopted by the State Board of Agriculture, and such publicity shall be given to the contents of such products or products as the Commissioner shall prescribe. All such products that shall fall below the standard fixed by the State Board of Agriculture are hereby declared to be illegal, and shall be subject to suspension from sale, condemnation and sale, as provided in Article 23 of the Agricultural Code.

**Section 8.—EVIDENCE.**—The copy of the official test of any gasoline, benzine, naptha, or other liquid motor fuels, under the seal of the Department of Agriculture and Industries shall be admissible as prima facie evidence of the facts therein stated in any of the courts of the State on the trial of any issue involving the merits of said product.

**Section 9.—INSPECTION FEE.**—For the purposes of this Act, an inspection fee of one-fortieth of one cent for each gallon of

gasoline, benzine, naptha, or other liquid motor fuel, sold or offered for sale in or for importation into the State, shall be paid to the Commissioner of Agriculture and Industries on or before the twentieth day of each month on all of said products so sold during the preceding calendar month and each remittance shall be accompanied by a certificate stating that the amount remitted is correct and that the gasoline, benzine, naptha, or other liquid motor fuel so sold was of legal standard. Said inspection fee herein provided shall be paid but once on the same product, but for failure on the part of any person, firm or corporation to make the payment herein provided for on or before the twentieth day of each month, the Commissioner of Agriculture shall be and is hereby authorized to add ten per centum to the amount of such inspection fees already due as a penalty for the failure of such person, firm or corporation to make such report and payment on the date herein provided and shall proceed to collect such inspection fees, together with all costs incident to such inspection, including the penalty. It shall be the duty of the person, firm or corporation first selling in or for importation into this State gasoline, benzine, naptha or other liquid motor fuels to pay said inspection fee, provided if such person, firm or corporation fails to pay said inspection fee, the Commissioner shall require the payment of said fees from such other person, firm or corporation as may receive gasoline, benzine, naptha, or other liquid motor fuel upon which the inspection fee has not been paid. The inspection fees shall constitute and operate as a lien, at all times until paid, upon any gasoline, benzine, naptha or other liquid motor fuel sold or offered for sale in or imported into this State and shall be enforceable immediately when due, by the Commissioner in the same manner as tax liens of the State upon personal property of a delinquent taxpayer are enforceable.

Section 10.—INVOICE OF SALE.—It shall be the duty of any person, firm or corporation selling in or for importation into Alabama gasoline, benzine, naptha or other liquid motor fuel to notify the Commissioner in writing by mail or otherwise on the day of shipment or other delivery for transportation, or within twenty-four hours, thereafter, of such sale and shipment or delivery. Such notice shall state the product, number of gallons, and to whom sold and shipped or delivered and addressed. The above provisions of this Section shall not apply to the following: 1. Retail dealers; 2. A distributor or wholesale dealer who is operating under a permit from the Commissioner and sells and delivers in less than tank car quantities. No sale or delivery of gasoline, benzine, naptha, or other liquid motor fuel shall be made from a tank-wagon, or motor vehicle or delivery truck unless the driver in charge of said vehicle shall deliver to the party receiving such

product an invoice showing number of gallons of said product and in which shall be plainly written or stamped the words "guaranteed legal standard", and that the inspection fee has been paid. Moneys collected under this Article shall accrue to the credit of the Agricultural Department Fund.

Section 11.—ADULTERATION PROHIBITED.—It shall be unlawful for any person, firm, corporation or association who has purchased gasoline, benzine, naptha, or other liquid motor fuel upon which an inspection fee has been paid, or which has been designated guaranteed legal standard, to in anywise adulterate or lower the standard of same by the addition thereto of kerosene, or any other liquid or substance, and sell or offer for sale the same.

Section 12.—PAYMENT OF EXPENSES OF ENFORCING ARTICLE.—All expenses incurred under the operation of this Act by the Commissioner or his agents, shall be paid by warrant drawn by the State Comptroller on the Agricultural Department Fund upon the requisition of the Commissioner. Said requisition shall be properly itemized and sworn to.

Section 13.—REFUND OF ILLEGALLY PAID FEES.—In the event that any collection of fees is improperly made in an effort to enforce the provisions of this Article either as a result of mistake of law or fact, upon written application of the party in interest, the State Comptroller, upon requisition of the Commissioner, approved by the Attorney General, that such sum was improperly collected and paid into the State Treasury, shall draw his warrant in favor of the party in interest upon the State Treasurer for the amount certified as improperly collected and paid into the State Treasury, and the same shall be charged to the money received under this Article.

Section 14.—BULLETINS.—The Commissioner shall publish, by and with the approval of the State Board of Agriculture, such bulletins, notices and information as in his judgment shall aid in the enforcement of this Article.

Section 15.—VIOLATIONS OF REQUIREMENTS.—Any person, firm, association or corporation who sells, offers for sale, or exchange in or for importation into this State any gasoline, benzine, naptha or other liquid motor fuel which is below the legal standard, or who makes a false statement or certificate as to the quantity or standard of such gasoline, benzine, naptha or other liquid motor fuel, or sells or offers for sale in or for importation into this State such products without having procured a permit as required by law or fails to make any report to the Commissioner as required by law, or makes a false certificate of the number of gallons of such products sold during the preceding month, or who sells, offers for sale in or for importation into this State, any such product otherwise in violation of the laws of this State shall be

guilty of a misdemeanor, and upon conviction, shall be fined not less than Fifty (\$50.00) Dollars, nor more than Five Hundred (\$500.00) Dollars, for each offense, which fines when collected, shall be paid into the State Treasury to the credit of the Agricultural Fund. The Commissioner may also revoke the permit of any person, firm or corporation found, upon investigation, to have repeatedly sold in or for importation into this State such products below the minimum standards adopted by the State Board of Agriculture, or who has failed or refused, after ten days notice by registered mail of such delinquency, to pay the inspection fees required by law. In case such permit is revoked by the Commissioner, the holder of said permit may require a hearing before the State Board of Agriculture at which he may appear personally or by legal representative and he may appeal from the decision of the Board by Injunction filed in the Circuit Court of Montgomery County, Alabama. Before the Commissioner and the State Board of Agriculture shall be enjoined, sufficient bond shall be filed with the Court and conditioned as the law now provides relative to injunction bonds. The findings of the Board shall be presumed to be correct.

**Section 16.—AGENT OR EMPLOYEE EXEMPT FROM PRECEDING SECTIONS.**—No person shall be indicted or convicted under the preceding section whose only interest in the sale, or offer to sell or exchange, made in violation of the law, is that of agent, servant, or employee of a person resident of this State, or of a corporation or association which is qualified to do business in this State.

**Section 17.—EXCEPTIONS TO ACT.**—The provisions of this Act shall not be construed to be applicable to gasoline, or other liquid motor fuels, unloaded in any port of the State of Alabama for shipment from said port into any other State, or to any shipments of gasoline, or other liquid motor fuels, through the State of Alabama from any other State to a destination point in any other State than Alabama.

**Section 18.—CONSTRUCTION.**—If any provision of this Act, or the application thereof, to any person or circumstance shall be held by the Supreme Court of the State to be unconstitutional, such holding shall not effect any other provision of this Act, or the application of such provision to other persons or circumstances, it being the intent and purpose thereof, that each provision hereof shall stand or fall on its own merits and that the judicial annulment for unconstitutionality of any provision hereof shall have no effect upon any other provision not so annulled.

**Section 19.—GENERAL PROVISIONS OF THE CODE MADE APPLICABLE TO THIS ACT.**—The provisions of Articles 1, 23, and 43, of the Agricultural Code of Alabama, of 1927,

and such other general provisions as are contained in said Code and applicable to the whole of said Code and not hereby repealed, shall be applicable to the provisions of this Act when not inconsistent or in conflict with the provisions of this Act.

Section 20.—REPEAL OF CONFLICTING LAWS.—All laws and parts of laws, general, special, or private, in conflict with the terms and provisions of this Act are hereby repealed.

Section 21.—EFFECTIVE DATE.—This Act shall take effect and become operative upon the sixtieth day after the approval by the Governor.

Approved February 5, 1935.

NO. 28)

(H. 60—Harrison

### AN ACT

To amend Article 19, containing Sections 170, 171, 172, 173, 174, 175 and 176, pertaining to kerosene and other illuminating oils, of the Code of Laws for the State of Alabama, known as the "Agricultural Code of Alabama," of 1927, adopted as the Code of Laws for the State of Alabama, prepared in accordance with the provisions of an Act approved February 18, 1927, (H.273 - Goode), by an Act to adopt said Code of Laws, approved August 24, 1927, and which pertains to Agriculture and Industries and relating subjects which are administered by, concern or relate to the duties of the Commissioner of Agriculture and Industries, The Department of Agriculture and Industries, or the State Board of Agriculture.

*Be it enacted by the Legislature of Alabama:*

Sec. 1. That Article 19, containing Sections 170, 171, 172, 173, 174, 175, and 176, pertaining to kerosene and other illuminating oils, of the Code of Laws for the State of Alabama, known as the "Agricultural Code of Alabama", of 1927, adopted as the Code of Laws for the State of Alabama, prepared in accordance with the provisions of an Act approved February 18, 1927, (H. 273—Goode), by an Act to adopt said Code of Laws, approved August 24, 1927, and which pertains to Agriculture and Industries and relating subjects which are administered by, concern or relate to the duties of the Commissioner of Agriculture and Industries, The Department of Agriculture and Industries, or the State Board of Agriculture, be and the same is hereby amended so as to read as follows: Section 1. KEROSENE DEFINED; STATEMENT OF BRANDS AND TESTS REQUIRED.—The term "kerosene" wherever used in this Act shall be construed to mean kerosene or other like products of petroleum used for illuminating, heating, or cooking purposes, or for any other purposes for which kerosene is ordinarily and customarily used. All kerosene sold, offered for sale, used or pos-



essed in, or sold for importation into this State, shall be subject to examination and tests to determine the safety and value for the purposes for which sold or used. Before offering kerosene for sale in or for importation into Alabama, the person, firm, association or corporation desiring to sell in or import into Alabama such products, must submit to the Commissioner of Agriculture and Industries a written application for a permit upon forms furnished by said Commissioner setting forth: First; The name and brand under which said kerosene is to be sold or imported, and in case said product is to be marketed in tanks, barrels, cans or other containers, the number of gallons, capacity of the containers in which it is to be put on the market and the name or names and address of the manufacturers or dealers; Second, a statement in terms of the standards adopted by the Board of Agriculture as to the standard guaranteed for said kerosene sold or offered for sale in or for importation into Alabama. Such statement may simply set forth that the product complies with the legal standards as provided for under the provisions of this law, or in case a higher standard is claimed, a statement to that effect may be made giving the standard guaranteed. As soon as practicable after the receipt of said statement the Commissioner shall issue to said applicant a permit, provided said statement shows the products to be sold in or for importation into this State are equal to or above the minimum standard required in this State for such products. Such applicant shall pay to the Commissioner the sum of One (\$1.00) Dollar for each brand contained in the application for permit; provided that all such permits shall expire on September 30th of the fiscal year for which they were issued. This Section shall not apply to a retail dealer selling kerosene purchased from a person, firm or corporation who has complied with the provisions of this Act.

**Section 2.—RECORDS SUBJECT TO INSPECTION, PREMISES ENTERED TO ENFORCE LAW.**—Every person, firm or corporation selling in or importing into Alabama kerosene shall keep a record of all such kerosene purchased, received, sold, imported, delivered or used by him which shall include the number of gallons so purchased, received, sold, imported, delivered or used, and the dates of such transactions, which records shall be preserved for a period of two years and which shall at all time during the business hours of the day be subject to inspection by the Commissioner of Agriculture and Industries or his agent. The Commissioner is authorized in person or by his agents to have free access to all premises, places of business, cars, vessels and parcels of whatsoever kind used in the transportation, importation, sale or storage of any kerosene. Whenever he or his agents find a violation of this Act they shall cause the violator to be prosecuted.

Section 3.—DETERMINATION OF STANDARDS.—The State Board of Agriculture shall have the right and power to determine and adopt standards as to safety, purity, freedom from objectionable substances, distillation test or fire test which are not in conflict with the law and which they may deem necessary to provide the people with kerosene satisfactory for the purposes for which it is sold and used and to make changes from time to time; provided, that such standards shall not be adopted until after a specified date when any person in interest may appear before the Board with reference to standards for such product or products. The Board shall prescribe the methods of tests to be used in determining whether or not such products are in compliance with such standards as shall be adopted as hereinbefore authorized. Said Board shall have authority to promulgate rules and regulations necessary to secure the safe handling of kerosene and other such rules and regulations not inconsistent with the provisions hereof as in their judgment may be necessary to the proper enforcement of this Act.

Section 4.—SAMPLING AND TESTING.—It is the duty of the Commissioner from time to time to secure samples of such products sold or offered for sale in the State, and to determine whether or not said products are sold or offered for sale in correct measure claimed by the person, firm or corporation selling or offering same for sale and to determine whether the same is of legal standard and of the standard advertised. The Commissioner shall test or cause to be tested such samples as provided by the rules and regulations of the State Board of Agriculture and shall make a certificate of such test, copy of which certificate shall be furnished upon request by said Commissioner to the person, manufacturer or dealer from whom said product was obtained.

Section 5.—SALE OF NON-STANDARD KEROSENE PROHIBITED.—No person shall sell, offer or expose for sale or exchange any kerosene which fails to comply with the standards adopted by the State Board of Agriculture, and such publicity shall be given to the contents of such product or products as the Commissioner shall prescribe. All such products that shall fall below the standard fixed by the State Board of Agriculture are hereby declared to be illegal, and shall be subject to suspension from sale, condemnation and sale, as provided in Article Twenty-three of the Agricultural Code.

Section 6.—EVIDENCE.—The copy of the official test of any kerosene under the seal of the Department of Agriculture and Industries shall be admissible as prima facie evidence of the fact therein stated in any of the courts of the State on the trial of any issue involving the merits of said product.

Section 7.—INSPECTION FEE.—For the purposes of this Act, an inspection fee of one-half of one cent for each gallon of kerosene sold in or for importation into the State, shall be paid to the Commissioner of Agriculture and Industries on or before the twentieth day of each month on all of said products so sold or imported during the preceding month and each remittance shall be accompanied by a certificate stating that the amount remitted is correct and that the kerosene so sold or imported was of legal standard. Said inspection fee herein provided shall be paid but once on the same product, but for failure on the part of any person, firm or corporation to make the payment herein provided for on or before the twentieth day of each month, the Commissioner of Agriculture shall be and is hereby authorized to add ten per centum to the amount of such inspection fees already due as a penalty for the failure of such person, firm or corporation to make such report and payment on the date herein provided and shall proceed to collect such inspection fees, together with all costs incident to such inspection, including the penalty. It shall be the duty of the person, firm or corporation first selling in or for importation into this State kerosene to pay said inspection fee, provided if such person, firm or corporation fails to pay said inspection fee, the Commissioner shall require the payment of said fees from such other person, firm or corporation as may receive kerosene upon which the inspection fee has not been paid. The inspection fees shall constitute and operate as a lien, at all times until paid, upon any kerosene sold or offered for sale in or imported into this State and shall be enforceable immediately when due, by the Commissioner in the same manner as tax liens of the State upon personal property of a delinquent taxpayer are enforceable.

Section 8.—INVOICE OF SALE.—It shall be the duty of any person, firm or corporation selling in or for importation into Alabama kerosene to notify the Commissioner in writing by mail or otherwise on the day of shipment or other delivery for transportation, of within twenty-four hours, thereafter, of such sale and shipment or delivery. Such notice shall state the product, number of gallons, and to whom sold and shipped or delivered and addressed. The above provisions of this section shall not apply to the following: 1. Retail dealers; 2. A distributor or wholesale dealer who is operating under a permit from the Commissioner and sells and delivers in less than tank car quantities. No sale or delivery of kerosene shall be made from a tank, wagon, or motor vehicle or delivery truck unless the driver in charge of said vehicle shall deliver to the party receiving such product an invoice showing number of gallons of said product and in which shall be plainly written or stamped the words "guaranteed legal standard", and that

the inspection fee has been paid. Moneys collected under this Article shall accrue to the credit of the Agricultural Fund.

Section 9.—PAYMENT OF EXPENSES OF ENFORCING ARTICLE.—All expenses incurred under the operation of this Act by the Commissioner or his agents, shall be paid by warrant drawn by the State Comptroller on the Agricultural Department Fund upon the requisition of the Commissioner. Said requisition shall be properly itemized and sworn to.

Section 10.—REFUND OF ILLEGALLY PAID FEES.—In the event that any collection of fees is improperly made in an effort to enforce the provisions of this Article either as a result of mistake of law or fact, upon written application of the party in interest, the State Comptroller, upon requisition of the Commissioner, approved by the Attorney General, that such sum was improperly collected and paid into the State Treasury, shall draw his warrant in favor of the party in interest upon the State Treasurer for the amount certified as improperly collected and paid into the State Treasury, and the same shall be charged to the money received under this Article.

Section 11.—BULLETINS.—The Commissioner shall publish, by and with the approval of the State Board of Agriculture, such bulletins, notices and information as in his judgment shall aid in the enforcement of this Article.

Section 12.—VIOLATIONS OR REQUIREMENTS.—Any person, firm, association or corporation who sells, offers for sale, or exchange in or for importation into this State any kerosene which is below the legal standard, or who makes a false statement or certificate as to the quantity or standard of such kerosene, or sells or offers for sale in or for importation into this State such products without having procured a permit as required by law, or fails to make any report to the Commissioner as required by law, or makes a false certificate of the number of gallons of such products sold during the preceding month, or who sells, offers for sale in or for importation into this State any such product otherwise in violation of the laws of this State, shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than Fifty (\$50.00) Dollars, nor more than Five Hundred (\$500.00) Dollars, for each offense, which fines when collected, shall be paid into the State Treasury to the credit of the Agricultural Fund. The Commissioner may also revoke the permit of any person, firm or corporation fund, upon investigation, to have repeatedly sold in or for importation into this State such products below the minimum standards adopted by the State Board of Agriculture, or who has failed or refused, after ten days' notice by registered mail of such delinquency, to pay the inspection fees required by law. In case such permit is revoked by the Commissioner, the holder of said

permit may require a hearing before the State Board of Agriculture at which he may appear personally or by legal representative and he may appeal from the decision of the Board by Injunction filed in the Circuit Court of Montgomery County, Alabama. Before the Commissioner and the State Board of Agriculture shall be enjoined, sufficient bond shall be filed with the Court and conditioned as the law now provides relative to injunction bonds. The findings of said Board shall be presumed to be correct.

Section 13.—EXCEPTIONS TO ACT.—The provisions of this Act shall not be construed to be applicable to kerosene unloaded in any port of the State of Alabama for shipment from said port into any other State, or to any shipments of kerosene through the State of Alabama from any other State to a destination point in any other State than Alabama.

Section 14.—CONSTRUCTION.—If any provision of this Act, or the application thereof, to any person or circumstance shall be held by the Supreme Court of the State to be unconstitutional, such holding shall not effect any other provision of this Act, or the application of such provision to other persons or circumstances, it being the intent and purpose thereof, that each provision hereof shall stand or fall on its own merits and that the judicial annulment for unconstitutionality of any provision hereof shall have no effect upon any other provision not so annulled.

Section 15.—GENERAL PROVISIONS OF THE CODE MADE APPLICABLE TO THIS ACT.—The provisions of Articles 1, 23, and 43, of the Agricultural Code of Alabama, of 1927, and such other general provisions as are contained in said Code and applicable to the whole of said Code and not hereby repealed, shall be applicable to the provisions of this Act when not inconsistent or in conflict with the provisions of this Act.

Section 16.—REPEAL OF CONFLICTING LAWS.—All laws and parts of laws, general, special, or private, in conflict with the terms and provisions of this Act are hereby repealed.

Section 17.—EFFECTIVE DATE.—This Act shall take effect and become operative upon the sixtieth day after the approval by the Governor.

Approved February 5, 1935.

No. 29)

(H. 40—Harrison)

## AN ACT

To Amend Section 10203 of The Code of Alabama of 1923.

*Be it enacted by the Legislature of Alabama:*

Section 1. That section 10203 of the Code of Alabama of 1923 be and the same is hereby amended so as to read as follows: Section 10203. These books must, at all times, be open to the inspection of the public, free of charge, and must, at the expiration of his official term, be turned over to his successor in office. Provided, however, that when a book has been completely filled or used up it must be deposited and kept in the office of the Clerk of the Circuit Court of the **County**.

Approved February 5, 1935.

No. 31)

(H. 83—Coleman.)

## AN ACT

To amend Sections 50, 59, 62 and 65 of the Military Code of Alabama, being An Act of the Legislature of Alabama, approved July 31st, 1931, entitled: "An Act to regulate and provide for the military and naval forces of the State of Alabama and to promote the efficiency of these forces; to prescribe rules, regulations, and means for their organization, armament, equipment, and discipline, control, and supervision; to provide for their maintenance, support, and upkeep; to allocate, organize, equip, discipline, train and maintain these forces for State and National emergencies in compliance with the provisions of the National Defense Act and Federal Laws governing the Naval Militia; to provide means for the enforcement of this Act; to repeal all Code Sections and all Acts and parts of Acts inconsistent therewith; and to fix penalties and punishments for the violations of this Act."

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 50 of said Act approved July 31st, 1931, be and the same is hereby amended to read as follows: Section 50. **MILITARY ADVISORY BOARD; ITS DUTIES:** A State Military Advisory Board shall be organized for the State of Alabama, consisting of five members. This Board shall be organized and its procedure shall be that of a Court of Inquiry organized under the provisions of the National Defense Act. The Board shall be composed of all active General Officers of the Line of the Alabama National Guard, and such additional number of the ranking Officers of the Line, in order of rank, in grades not lower than Major, as will cause the membership of the Board not to exceed a total of five, representing as far as practical, the

branches of the service in the State carrying the largest number of officers, warrant officers, and enlisted men. Provided, that the Adjutant General of the State and the ranking Judge Advocate General of the Alabama National Guard shall be ex-officio members of the Board. Membership on this Board shall be coterminous with active service in the National Guard.

**DUTIES OF THE STATE MILITARY ADVISORY BOARD:** The State Military Advisory Board, cooperating with the Adjutant General of the State, shall constitute an advisory body to the Commander in Chief on Military and Naval matters pertaining to the State, and may advise concerning the necessary rules and regulations to be promulgated for the purpose of carrying out any military and naval policies and plans formulated and approved by the Governor. Among their duties shall be the selection of nominees, who are to be appointed by the Governor, for all Staff Officers, allotted to the State, when the officers appointed to fill such offices are not members of the Staff of an officer commissioned in the Alabama National Guard. In selecting nominees for Staff Officers to be presented to the Governor, as before mentioned in this Section, nominations shall be made from among those who have served in the active National Guard of the State for not less than three years, one year of which must have been in the line, and who are on the State Register of Eligibles in a grade not lower than that authorized for the Staff Office to which the appointment is to be made. Provided, that in the case of nominees for appointment in the Medical Department, the Judge Advocate General's Department and other Technical Branches of the Service, such officers may be selected from the National Guard or the Officers Reserve Corps of the United States Army. The Board shall act in an advisory capacity to the Adjutant General and the Governor in matters concerning the problems of providing arsenals, Warehouses, Armories, and other buildings and grounds for military purposes for the State and for units of the National Guard and Naval Militia, and in suggesting ways and means for procuring, constructing, building, and providing maintenance funds for the same. They shall act in an advisory capacity to the Adjutant General in the formulation of such policies and plans as he may submit to them involving, allotments, allocation, maintenance, administration, training, and discipline of the Militia of the State and any other matters that he may submit, including plans, ways and means of organizing and maintaining the National Guard Reserve, plans for raising the National Guard to war strength in case of a National Crisis, plans, ways and means of aiding the State and the United States in the execution of any Selective Service or similar Act that may be enacted by the Federal Government, to be put into effect in case of war. They may, if requested by the Adjutant General, cooperate with the Military De-

partment of Alabama in writing and promulgating all rules and regulations that may be written under the Constitution and the Military Acts of the State of Alabama, which articles, rules, and regulations, when approved by the Governor, shall be published to the National Guard and Naval Militia of the State, and shall have the force and effect of law. **MEETING OF BOARD, COMPENSATION OF MEMBERS:** The State Military Advisory Board shall meet at such times as the Governor shall deem their services necessary for the transaction of such military business as may need their attention. **PAYMENT OF EXPENSES:** The members of the State Military Advisory Board shall be paid five dollars (\$5.00) per day while in actual attendance at meetings of the Board, and in addition thereto each member of the Board shall receive all necessary and actual transportation expenses, and a flat allowance of three dollars (\$3.00) per day for all other expenses, the day beginning at midnight and fractions of a day counting as a full day for the purpose of making such per diem pay and allowance. All expenses and expenditures shall be paid out of the Regular Military Appropriations. A majority of said Board shall constitute a quorum for the transaction of business, and the Board shall meet in the offices of the Military Department of the State or such other place in the State and at such time as may be designated by the Commander in Chief.

Section 2. That Section 59 of said Act approved July 31st, 1931, be and the same is hereby amended to read as follows: **Section 59. THE PERSONAL STAFF OF THE GOVERNOR:** The personal staff of the Governor shall consist of the following officers to be appointed by him and commissioned by him with brevet rank holding office at his pleasure: Twenty officers with the rank of Lieutenant Colonel or Commander assigned as Aides de Camp or with honorary assignment to the several branches of the Military and Naval service of the State of Alabama, as may be his pleasure. Provided, that nothing in this Act shall prevent a member of the Governor's personal staff from holding an active or reserve commission in the National Guard or Naval Militia of Alabama, or a reserve commission in the Army, Navy, or Marine Corps of the United States, under the provisions of the National Defense Act or Federal Laws governing the Naval Militia or other Federal Military and Naval laws nor or hereafter enacted. The Governor shall also be authorized and empowered to appoint an officer who shall serve on his staff, with full rank of Colonel, which officer shall have all privileges and powers of any other active officer, and may be subject to call to active duty at any time, but, however, said officer shall serve without compensation or remuneration.



Section 3. That Section 62 of said Act approved July 31st, 1931, be and the same is hereby amended to read as follows: Section 62. COMPLIANCE WITH FEDERAL REQUIREMENTS RELATING TO OFFICERS OF STATE STAFF. That hereafter no appointments shall be made of any State Staff Officers, including those employed in the Military Department of the State, and including officers of the Adjutant General's Department, Pay Department, Inspector General's Department, Judge Advocate-General's Department, Ordnance Department, Quartermaster Corps, Medical Corps, unless such appointees shall have had previous military experience, and have demonstrated by actual and extended military service, or records of achievements in their civil life professions, or both, that they are qualified for the duties and responsibilities of the office for which they may be appointed, and they shall hold their appointments or office at the pleasure of the Governor. Provided, that nothing in this Section shall be construed or operate or limit the provision of any Federal law relative to the qualifications for appointment of officers or the filling of vacancies.

Section 4. That Section 65 of said Act approved July 31st, 1931, be and the same is hereby amended to read as follows: Section 65. ADMINISTRATIVE STAFF; THE ADJUTANT GENERAL OF THE STATE. That there shall be an adjutant General of the State of Alabama, who shall be appointed by the Governor, and who shall serve at the pleasure of the Governor. He may be commissioned as a general officer, with the consent of the Senate. He shall be commissioned as an officer in the Adjutant General's Department, State Staff, National Guard of Alabama, as provided in Section 3 of this Act and may have such rank as is now or may hereafter be provided for an officer of the State Staff, Adjutant General's Department, under the provisions of the National Defense Act and regulations written thereunder. The Adjutant General of the State shall be in direct charge of the military and naval affairs of the State and shall be responsible to the Governor and Commander in Chief for the proper performance of his duties. All the powers conferred and duties imposed by law upon the Adjutant General shall be exercised or performed by him under the direction and control of the Governor. The Adjutant General shall be Chief of the State Staff and Ex Officio Chief of the Governor's Personal Staff and all Staff Departments, Staff Corps, and similar military and naval agencies of the State of Alabama. He shall supervise the receipt, preservation, repair, distribution, issue and collection of all arms, military equipment and stores of the State and of the United States. He shall supervise all troops, arms and branches of the Militia, such supervisory powers covering primarily all duties pertaining to the organization,

armament, discipline, training, recruiting, inspecting, instructing, pay, subsistence and supplies. He shall maintain a roster of all the officers and men of the National Guard and Naval Militia of the State and keep on file in his office copies of all orders, reports and communications received and issued by the Military Department of the State in its several branches and sections. He shall, from time to time, cause the laws and all State regulations that may be written thereunder, to be printed, bound and distributed at the expense of the State. He shall cause to be prepared and furnished to each organization, and such individual officers as may require them, necessary blank forms, books and stationery at the expense of the State, such expense to be paid in the same manner as other State printing is paid. The Adjutant General shall, from time to time, prepare and publish, by order of the Governor, such orders, rules and regulations consistent with the law as are necessary to bring the organization, armament, equipment, training and discipline of the various classes of the Militia of Alabama to a state of efficiency as nearly as possible to that of the United States Army and Navy. He shall prepare such reports and returns as the Secretary of War or the Secretary of the Navy of the United States may prescribe and require. He shall perform such other duties as may be required of him by the Commander in Chief, and the Comptroller of Alabama shall draw warrants on the State Treasury for all expenses incurred under this Section on bills regularly presented to, and approved by, the Governor. It shall be the duty of the Adjutant General, if ordered by the Governor, to visit and inspect each company, troop or battery at least once a year, and to report to the Commander in Chief the condition of Armories and other military buildings and properties, and of the arms, equipment, and personnel of said organizations, and make such recommendations as he thinks proper in regard thereto. Provided, that the Adjutant General may designate members of the State Staff, or Field Officers of the National Guard, as Inspecting Officers for the purposes in question. The Adjutant General shall assist all persons residing in Alabama, or other States, having claims against the State or the United States for compensation, pensions, retired pay, bounty or back pay, or service medals and decorations awarded by the United States, or the State of Alabama, where such claims and requests have arisen out of, or by reason of, service in any of the wars or insurrections concerning the United States or the State of Alabama. He shall furnish to claimants, or their accredited representatives, or assist them in procuring, all necessary certificates and certified abstracts from the records and documents in the Military Department and other Departments of the State or the United States. Provided, that, any or all of these services, shall be rendered without

charges to the claimant. The Adjutant General shall have a seal of office, to be approved by the Commander in Chief, and all copies of papers in his office duly certified and authenticated under the said seal shall be evidence in all cases in like manner as if the original were produced. **DUTIES OF THE ADJUTANT GENERAL IN CASE OF A NATIONAL CRISIS WHEN A NATIONAL SELECTIVE SERVICE OR SIMILAR LAW WOULD BE OPERATIVE IN THE STATE:** He shall be qualified for commission and shall be commissioned, if authorized by the laws of the United States now or hereafter enacted, in the Adjutant General's Department or such other Department, Corps, or branch of the service as will enable him to perform all duties required of him within the State by National Defense Act, a Federal Draft, Selective Service, or similar Act, operative in a National Emergency. He shall have a military status in this State, if provided by the laws of the United States, now or hereafter enacted, during periods in which the National Guard of Alabama is in the Federal service under a call, draft, order, or other means of induction into the Federal military or naval service, that will enable him to work in an advisory capacity, or other capacity, to the Governor or to a State Draft Executive, or other civil or military officer performing such duties in the execution of a Federal Selective Service or similar law. He shall, if authorized by the laws of the United States now or hereafter enacted, during period in which the National Guard of Alabama is in the Federal service, under a call, draft or order, perform the duties of Provost Marshal or Acting State Adjutant General, and in the performance of such duties shall be entitled to all allowances and to reimbursement for all expenses incident to the performance of his duties as Provost Marshal or Acting Adjutant General provided in State Military Laws. Provided, that, he shall not receive a State salary while in the active service of the United States and receiving a Federal salary for such service. He shall, if called, drafted, or ordered into the Federal service, on discharge therefrom, revert to his State military status and such Federal military status as may now or hereafter be provided by the military laws of the United States governing the National Guard, on the day, following his discharge from the active military service of the United States. **EMPLOYEES IN THE MILITARY DEPARTMENT OF THE STATE:** He may have to assist him in the performance of his duties, and as heads of departments, corps, and other branches of the service in the State Staff Corps and Departments, and as employees in the several departments, corps, or branches of service in the State Staff, the following full time military and civil employees of the State: Not more than six employees who may be members of the active National Guard

or Naval Militia of Alabama, these employees to hold office at the pleasure of the Governor. They shall have had at least three years service in the National Guard or Naval Militia of Alabama. In addition to the employees stated above there shall not be more than three stenographers and clerks who shall be appointed by the Governor. The clerks and stenographers may be either civil or military employees of the State Military Department. The employee performing the duties of the United State Property and Disbursing Officer, which officer shall also be the Assistant Adjutant General of Alabama, shall have had at least three years active service in the National Guard of Alabama. The employee performing the duties of State Property and Disbursing Officer shall have had at least three years active service in the National Guard of Alabama. In filling vacancies that may occur on the State Staff from persons who are full time employees in the Military Department of the State, such persons shall be appointed by the Adjutant General, with the approval of the Governor. All employees shall be assigned to duties by the Adjutant General, with the approval of the Governor.

Section 5. All laws or parts of laws inconsistent with or in conflict with any of the provisions of this Act are hereby expressly repealed.

Section 6. This Act shall become effective and operative immediately upon its approval by the Governor.

Approved February 2, 1935.

No. 32)

(H. 84—Sanderson

### AN ACT

To provide for the service of process in civil suits upon non resident operators or non resident owners whose motor vehicles are operated upon the public highways within the State of Alabama.

*Be it enacted by the Legislature of Alabama:*

Section I. The operation by a non resident of a motor vehicle on a public highway in this State, or the operation on a public highway in this State of a motor vehicle owned by any nonresident and being operated by such non-resident, or his, their or its agent, shall be deemed equivalent to an appointment by such non resident of the Secretary of State of the State of Alabama, or his successor in office, to be such non resident's true and lawful agent or attorney upon whom may be served the summons and complaint in any action against such non resident growing out of any accident or collision in which such non resident may be involved while operating a motor vehicle on such public highway; or in which such

motor vehicle may be involved while being operated on such public highway within the State of Alabama; and such operation shall be deemed a signification of such non resident's agreement and equivalent to an appointment by such non resident of the Secretary of State of the State of Alabama, or his successor in office, to be such non resident's true and lawful agent or attorney upon whom may be served all lawful process in any action or proceedings against such non resident growing out of any accident or collision in which such non resident may be involved while operating a motor vehicle on such public highway, or in which such motor vehicle may be involved while being operated on such public highway within the State of Alabama, so that any such summons and complaint against such non resident which is so served shall be of the same legal force and effect as if personally served within the State of Alabama. Service of such process shall be made by leaving three copies of the summons and complaint, with a fee of Three Dollars, with the Secretary of State of the State of Alabama, and such service shall be sufficient service upon such non resident defendant; provided, that notice of such service and a copy of the summons and complaint are forthwith sent by registered mail to the defendant by the Secretary of State of the State of Alabama, or his successor in office, and the defendant's return receipt and the certificate of the Secretary of State, or his successor in office, of the compliance herewith, which shall be filed in the office of the Clerk of the Court or in the Court wherein said action may be pending. Such certificate of the Secretary of State shall show the date of the mailing by registered mail of the notice of the service and copy of the summons and complaint to such non-resident defendant, and the date of the receipt of the return card, and shall be signed by the Secretary of State of the State of Alabama, or his successor in office; or, provided, that the Secretary of State of the State of Alabama, or his successor in office, may give such non resident defendant notice of such service upon the Secretary of State of the State of Alabama in lieu of the notice of service hereinabove provided to be given, by registered mail, in the following manner: By causing or having a notice of such service and a copy of the summons and complaint served upon such non resident defendant, if found within the State of Alabama, by any officer duly qualified to serve legal process within the State of Alabama, or if such non resident defendant is found without the State of Alabama, by a Sheriff, Deputy Sheriff, or United States Marshal, or deputy United States Marshal, or any duly constituted public officer qualified to serve like process in the State of the jurisdiction where such non resident defendant is found; and the officer's return showing such service, when made, shall be filed in the office of the Clerk of the Court, or in the Court wherein such action is pending, on or before the return day of the

process, or within such further time as the Court may allow; provided further that the Secretary of State, or his successor in office, may require the plaintiff in such action to deposit Two Dollars additional with the Secretary of State of the State of Alabama to cover the costs and such officer's fee for serving such notice and process. And the Court in which such action is pending may order such continuance or continuances as may be necessary to afford such non resident defendant reasonable opportunity to defend the action. The fee of Three Dollars paid by the plaintiff to the Secretary of State, required to be deposited with the Secretary of State at the time of the service, and the additional fee of Two Dollars if it is required to be deposited by the plaintiff with the Secretary of State, shall be taxed as costs, if he prevails in the suit. The Secretary of State shall keep on file in his office a copy of such summons and complaint and also keep a record of all such process which shall show the day and hour and manner of such service.

Section II. Section I of this Act shall not apply to any foreign corporation that has qualified under the Constitution and Laws of this State as to doing business herein, and has designated and has and is maintaining at such time an authorized agent or agents residing in this State upon whom service can be had.

Section III. The provisions of this Act shall be separable, and if any of such provisions shall be held unconstitutional, such unconstitutionality of such provision or provisions shall not affect the validity of the remaining provisions thereof.

Section IV. This Act shall go into effect immediately upon its passage and approval.

Approved February 8, 1935.

No. 33)

(H. 119—Welch

### AN ACT

To Prescribe Legal Investments Of Trust Funds By Fiduciaries.

*Be it enacted by the Legislature of Alabama:*

Section 1. Unless otherwise authorized or directed by the court having jurisdiction thereof, or by the will, trust agreement or other document which is the source of authority, a trustee, executor, administrator, guardian, or one acting in any other fiduciary capacity may, with the exercise of reasonable business prudence, in addition to any other investments now permitted by law, invest funds in securities or investments which, at the time of the making or purchase thereof, are included in one or more of the following classes: (a) Bonds or other interest bearing obli-

gations of the United States of America, or payment of which the United States of America has guaranteed as to both principal and interest. (b) Bonds issued by the Federal Land Bank, under the Act of Congress of the United States of America, designated as "The Federal Farm Loan Act," and acts amendatory thereof. (c) Bonds or other interest bearing obligations of any State of the United States of America. (d) Promissory notes, bonds or other evidences of indebtedness secured directly or collaterally by mortgage or trust deed which is a first lien on improved real estate in this or any other State of the United States of America; provided that this section shall not, in so far as the same is prohibited by the Constitution of this State, authorize the investment of such funds in the stocks or bonds of private corporations. (e) As a deposit in the savings department of any bank which is a member of the Federal Deposit Insurance Corporation. In the event the fiduciary is such a bank, such deposit may be made in its own savings department, and in such event, it shall only be liable for interest thereon at the same rate, and subject to the same regulations as other savings deposits therein. Provided that any such deposit in said savings account shall not exceed the amount authorized to be insured by the Federal Deposit Insurance Corporation.

Section 2. If any section, clause or provision in this act is declared unconstitutional or invalid, it shall not affect any other section, clause or provision thereof not in and of itself unconstitutional or invalid.

Section 3. This Act to take effect immediately upon approval by the Governor.

Approved February 8, 1935.

No. 34)

(H. 127—Walker

### AN ACT

To validate proceedings heretofore taken by any county, city or town in the State of Alabama for the authorization of certain bonds, and to provide that such bonds may be issued pursuant to such proceedings.

*Be it enacted by the Legislature of Alabama:*

Section 1. In all cases since July 1, 1933, where any county, city or town in this State has provided for the issuance of bonds, and the voters of such county, city or town have approved the issuance of such bonds at an election called and held for that purpose, all such bonds when sold and delivered in the manner and form as provided by law, are hereby declared to be valid and legally binding obligations of such county, city or town, notwithstanding any defect or irregularities in the proceedings had to authorize such bonds, including, but not limited to, the failure to file any petition

required by law or the failure to file a petition in the form required by law.

Section 2. This Act shall have no effect and shall have no application whatsoever to any bond or obligation referred to herein which was issued or authorized, or attempted to be issued or authorized, prior to said first day of July, 1933, but is limited solely to such bonds or obligations as had their inception since July 1, 1933.

Section 3. This Act shall become effective upon its approval by the Governor.

Approved February 2, 1935.

No. 35)

### AN ACT

(H. 136—Hendley

To authorize, provide for and regulate the sale of bonds of counties and municipalities at private sale without advertising to the United States of America or to any corporation, instrumentality or agency of the United States of America.

*Be it enacted by the Legislature of Alabama:*

Section 1. Any municipality or county of this State by a majority vote of its governing body may issue and sell its bonds otherwise legally authorized according to the Constitution and statutes of Alabama to the United States of America or any corporation, instrumentality or agency, created, designated or established by the United States of America at a private sale without advertising, any provisions of the Municipal Bond Code to the contrary notwithstanding; the price at which such bonds shall be sold shall not be less than par and accrued interest.

Section 2. This Act shall become inoperative after June 30, 1937.

Section 3. This Act shall take effect upon its approval by the Governor and all laws or any parts of any law in conflict therewith are hereby especially repealed.

Approved February 5, 1935.

No. 36)

### AN ACT

(H. 137—McPhaul

Validating, ratifying, approving and confirming certain bonds and other instruments or obligations heretofore issued for the purpose of financing or aiding in the financing of any work, undertaking or project by any public body of the State of Alabama to which any loan or grant has heretofore been made by the United States of America through the Federal Emergency Administrator of Public Works for the purpose of financing or aiding in the financing of such work, undertaking, or project, including all proceedings for the authorization and issuance of such bonds, and



the sale, execution, and delivery thereof, notwithstanding any lack of power (other than constitutional) of such public body; or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings, or in such sale, execution, or delivery.

*Be it enacted by the Legislature of Alabama:*

Section 1. This Act may be cited as "The 1935 Validating Act."

Section 2. The following terms, wherever used or referred to in this Act, shall have the following meaning: (a) The term "public body" means any Town, City, County, County Board of Education, City Board of Education, School District, Bridge Commission, or Drainage District of this State. (b) The term "bonds" includes bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, including all instruments or obligations payable from a special fund.

Section 3. All bonds heretofore issued to the United States of America or any agency thereof for the purpose of financing or aiding in the financing of any work undertaking or project by any public body to which any loan or grant has heretofore been made by the United States of America through the Federal Emergency Administrator of Public Works for the purpose of financing or aiding in the financing of such work, undertaking or project, including all proceedings for the authorization and issuance of such bonds, and the sale, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such public body, or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings, or in such sale, execution or delivery; and such bonds are and shall be binding, legal, valid and enforceable obligations of such public body.

Section 4. This Act shall be effective immediately upon its passage and approval.

Approved February 5, 1935.

No. 37)

(S. 3—Wellborn

## AN ACT

To amend Section 8563 of the Code of Alabama, 1923, regulating the rate of interest:

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 8563 of the Alabama Code of 1923, be and it hereby is amended so that said Section shall read as follows:

"8563. The rate of interest upon the loan or forbearance of money, goods or things in action, except by written contract, is six dollars upon one hundred dollars for one year, and the rate of interest by written contract is not to exceed eight dollars upon one hundred dollars for one year; and at that rate for a greater or less sum, or for a longer or shorter time."

Approved February 9, 1935.

No. 38)

(H. 93—Connor

## AN ACT

To amend Section 18 of an Act approved August 15, 1923, and entitled "An Act to amend an Act approved September 25th, 1915, entitled 'An Act to provide for the government by a commission of all cities in Alabama which now have or which may hereafter have a population of one hundred thousand people or more, according to the last Federal census or any such census which may hereafter be taken, when such cities by an election adopt the provisions of this Act; to provide for the selection and election of commissioners and their terms of office; to fix their powers, duties and compensation; to punish improper conduct in connection with the election of said commissioners and to otherwise provide for the creation, conduct and maintenance of said commission form of government, and to repeal all laws and parts of laws in conflict with the provisions of this Act;' and to provide for the going into effect of the various sections of said Act as amended."

*Be it enacted by the Legislature of Alabama:*

Sec. 1. That Section 18 of an Act approved August 15, 1923, and entitled: "An Act to amend an Act approved September 25th, 1915, entitled: 'An Act to provide for the government by a commission of all cities in Alabama which now have or which may hereafter have a population of one hundred thousand people or more, according to the last Federal census or any such census which may hereafter be taken, when such cities by an election adopt the provisions of this Act; to provide for the selection and election of commissioners and their terms of office; to fix their powers, duties and compensation; to punish improper conduct in connection with the election of said commissioners and to other-

wise provide for the creation, conduct and maintenance of said commission form of government, and to repeal all laws and parts of laws in conflict with the provisions of this Act; "and to provide for the going into effect of the various sections of said Act as amended," be and the same is hereby amended to read as follows: "Section 18. Whenever any vacancy or vacancies shall occur in the office of president of the commission or other commissioner of any city organized under the provisions of this Act, by death, resignation, removal, or any other cause, the election commission of such city shall forthwith call a special election to fill such vacancy or vacancies, such election to be held not less than fourteen (14) and not more than twenty-one (21) days from the occurrence of such vacancy or vacancies. Notice of such election shall be given at the expense of such city by one publication at least ten (10) days in advance of the same in one or more newspapers published in such city. The method, procedure and requirements of qualifying, voting upon and determining the successful candidate or candidates shall be the same as is herein provided relative to the election of the president and other commissioners in quadrennial elections, except that statements of candidacy must be filed at least seven (7) days before the date set for such election. Successors to the president or other commissioners chosen at any such election shall qualify for office as soon as practicable thereafter, and shall be clothed with and assume the duties, responsibilities and powers of such office immediately upon such qualification, and shall hold office for the unexpired term of their predecessor or predecessors, unless such term be sooner terminated by recall as herein provided"

Approved February 9, 1935.

No. 39)

(H. 125—Almon

### AN ACT

To further provide for bonds of contractors on State and other public works and suits thereon.

*Be it enacted by the Legislature of Alabama:*

Section 1. Any person, firm or corporation entering into a contract with the State or any County or municipal corporation or sub-division thereof in this State for the repair, construction or prosecution of any public buildings or public work, highways or bridges, shall be required, before commencing such work, to execute a performance bond, with penalty equal to 50 percent of the amount of the contract price, and in addition thereto, another bond with good and sufficient surety, payable to the State, County or municipal corporation or subdivision, letting the contract, in an

amount not less than 50% of the contract price, with the obligation that such contractor or contractors shall promptly make payments to all persons supplying him or them with labor, materials, feed-stuffs or supplies for or in the prosecution of the work provided for in such contract, and for the payment of reasonable attorneys fees, incurred by successful claimants or plaintiffs in suits on said bond; and any person, firm or corporation that has furnished labor, materials, feed-stuffs or supplies for or in the prosecution or repair of any public building or public work, highways or bridges, and payment for which has not been made, shall be authorized to institute an action upon said bond in his or their name or names and to have their rights and claims adjudicated in such action and judgment rendered thereon; provided, however, that no suit shall be instituted on said bond until after forty-five days written notice to the surety thereon of the amount claimed to be due and of the nature of the claim. Such suit shall be commenced not later than one year from the date of final settlement of said contract. The giving of said notice by registered mail, postage prepaid, addressed to the surety at any of its places of business or offices shall be deemed sufficient hereunder. In the event the surety or contractor fails to pay such claim in full within forty-five days from the mailing of such notice, then such person or persons shall be entitled to recover of the contractor and surety, in addition to the amount of said claim, a reasonable attorney's fee, together with interest on such claim from the date of such notice. Every person or persons having a right of action on said last described bond as herein provided shall, upon written application to the authority under the direction of whom such work has been prosecuted, setting out that labor, material, feed-stuffs or supplies for such work has been supplied by him or them and that payment therefor has not been made, be promptly furnished a certified copy of said additional bond and contract. Such claimant shall be authorized to bring suit on said bond in the county in which the work provided for in said contract is to be performed, or in any county where the contractor or his surety does business, for his or their use and benefit against said contractor and his surety or either of them. In addition to any other legal mode of service, service of summons and other process in suits brought in the county where the work is let or done may be had on the contractor and/or the surety on the last described bond, by leaving a copy of the summons and complaint or other pleading or process, with the Chairman of the State Highway Commission if the contract be a state highway contract or with the executive officer of the city, town, board, commission or authority letting the contract, or charged with the payment of the contract price, if the contract be not a state highway contract. The bond last described shall have a provision binding the principal contractor and surety to the mode of service above de-

scribed; and consenting that such service shall be the same as personal service on the contractor and/or surety. Immediately on service being made on the Chairman of the State Highway Commission or executive office of a city, town, board, commission or authority, it will be the duty of such Chairman or executive officer to immediately mail a copy of such process to the contractor and surety, at the address given in the bond.

Section 2. This Act shall take effect upon its approval by the Governor.

Section 3. If any clause or sentence or provision of this Act is unconstitutional, it shall not affect the other valid provisions hereof.

Section 4. This Act shall not require the taking of bond to secure contracts of less than \$1000.00 in amount.

Section 5. The contractor shall immediately after the completion of the contract give notice of said completion by an advertisement in some newspaper of general circulation published within the city or county wherein the work has been done for a period of four (4) successive weeks. In no instance shall a final settlement be made upon the contract until the expiration of thirty days after the completion of same. Proof of publication of said notice shall be made by the contractor to the authority by whom the contract was made, by affidavit of the publisher and a printed copy of the notice published. If no newspaper is published in the county where the work is done, the notice may be given by posting at the Court house for thirty days and proof of same shall be made by the probate judge or sheriff and the contractor.

Section 6. Section 28 of an act of the legislature of Alabama, Approved August 23rd, 1927 being Act No. 347, is hereby repealed; and all other laws and parts of laws in conflict with the provisions hereof are hereby repealed.

Approved February 8, 1935.

No. 40)

(H. 128—Harrison

### AN ACT

Providing for the incorporation of improvement authorities; prescribing the powers and duties of such authorities; and authorizing such authorities to engage in the enterprise of furnishing water, sewerage, telephone, gas or electric heat, light or power services, and to issue bonds and providing for the payment of such bonds.

*Be it enacted by the Legislature of Alabama:*

Section 1. **SHORT TITLE.** This act may be cited as "The Improvement Authorities Law."

Section 2. **DEFINITIONS.** The following terms whenever used or referred to in this act, shall have the following meanings,

unless a different meaning clearly appears from the context: (a) The term "authority" shall mean a corporation created pursuant to this act. (b) The term "territory" shall mean the geographical area coterminous with the boundaries of a city or town. (c) The term "municipality" shall mean any city or town incorporated under the laws of the State of Alabama and shall also mean the inhabitants of an area containing not less than two hundred fifty (250) qualified electors outside of an unincorporated city or town who shall become incorporated under the authority of this Act. (d) The term "governing body" shall mean the body or board, by whatsoever name it may be known, having charge of the finances of a municipality. (e) The term "services" shall mean any one or more of all of the following: water, sewerage, telephone, gas or electric heat, light, or power services; commodities or facilities. (f) The term "enterprise" shall mean the business, undertaking or enterprise of furnishing services.

Section 3. REQUISITES FOR INCORPORATION. The citizens of any city or town in the State of Alabama or the citizens of any area in the State of Alabama containing as many as two hundred fifty (250) qualified electors may be incorporated as an authority under this Act.

Section 4. PETITION FOR INCORPORATION. A petition, in the form and executed as provided in the next two sections, may be presented by filing the same with the clerk of the city or town, and when the petition is signed by inhabitants of an area with two hundred fifty (250) qualified electors, it may be presented to the Probate Judge of the County in which the electors reside. It shall be signed by qualified electors in the territory by a number of at least equal to five percent (5%) of the total number of qualified electors in said territory.

Section 5. FORM OF PETITION. The petition shall be in substantially the following form: "To the (herein insert the name of governing body) of the City (or Town) or to the Probate Judge of \_\_\_\_\_ County. We, the undersigned, qualified electors of the area embraced within the city or town or of the following

described area \_\_\_\_\_ respectfully petition that there be submitted to a vote of the qualified electors in said area the following question: 'Shall the citizens of said city or town or the citizens of said described area (describing it) be incorporated by the name of the Improvement Authority of (here insert name of city or town, or area) for the purpose of engaging in the enterprise of furnishing to such city, town or area and its inhabitants or to the inhabitants of such area described for public and private uses the following services:

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(Signatures of electors)

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(Residences by street and number)

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One of the persons who presents and files the petition shall make an affidavit that the signatures on the petition are genuine signatures and that the persons who signed their names thereto are qualified electors according to the published poll list.

Section 6. SUMMARY PROCEEDINGS TO REVIEW SUFFICIENCY OF PETITION. The Probate or Circuit Court or any judge thereof within the County shall have summary jurisdiction upon complaint of an elector, to determine the sufficiency of the petition and shall make such order as justice may require as to such sufficiency; but such summary proceeding shall be instituted within ten days after the petition is filed with the clerk.

Section 7. SUBMISSION OF QUESTION AT GENERAL ELECTION. If the petition shall have been filed with the clerk or Probate Judge (or, in case a summary proceeding has been instituted, a final order thereon has been made in favor of the sufficiency of the petition) not more than sixty days and not less than thirty days prior to a general city or town election, the body of the city or town to which such petition is directed or the probate judge of the county in which the unincorporated area is located, shall cause the question proposed by the petition to be duly submitted to a vote of the electors of the territory at such general election.

Section 8. SUBMISSION OF QUESTION AT SPECIAL ELECTION. If a petition shall not have been filed (or, in case a summary proceeding has been instituted, a final order thereon has not been made in favor of the sufficiency of the petition) so as to permit the question to be submitted at a general election, within the provisions of the preceding section, the body to which such petition is directed shall at its next regular meeting succeeding the presentation of the petition (or, in case a summary proceeding has

been instituted succeeding the date of a final order thereon in favor of the sufficiency of the petition) or the probate judge of the county in which the unincorporated area is located shall designate a day for the holding of a special election to ascertain the will of the electors regarding the question, which day shall not be less than thirty days nor more than forty days from the date of such regular meeting. The provisions of the election laws, covering the registration of voters, equipment of polling places, furnishing of supplies, appointment of election officers voting and canvassing of returns, at a general election, shall apply to such election. The governing body of such city or town or the governing body of the county in which the unincorporated area is located, is hereby authorized to appropriate and expend from moneys raised by taxation, for the necessary expense of such special election.

**Section 9. PUBLICATION OF NOTICE AND CONDUCT OF ELECTION.** The clerk or probate judge shall give notice of the submission of the question by causing notice of the filing of the petition and the question to be submitted to be published at least once on the same day of each week for three consecutive weeks in a newspaper of general circulation in the territory.

**Section 10. FORM OF BALLOT; VOTING MACHINES.** The question set forth in the petition shall be printed on the ballot. At the left of the question there shall be printed two voting squares, with the word "Yes" for voting for the question at the right of one square, and the word "No" for voting against the question at the right of the other square. No voting machines shall be used at the general or the special election for voting on the question.

**Section 11. FILING OF RESULT.** At the regular meeting of the governing body of the municipality next succeeding the completion of the canvass and the statement and proclamation of result, such governing body shall adopt a resolution setting forth (a) the question submitted at the election, (b) the number of votes cast for the question, and (c) the number of votes cast against the question. If the number of votes cast for the question exceeds the number of votes cast against the question at such election, such resolution shall further declare that the citizens of the state of Alabama who are inhabitants of the territory, the boundaries of which are coterminous with the boundaries of such municipality, are incorporated as the "Improvement Authority of\_\_\_\_\_."

**Section 12. WHEN AUTHORITY DEEMED INCORPORATED.** The citizens of the State of Alabama who are inhabitants of such territory shall become and be an incorporated authority under this act from and after the date of adoption of the resolution of the governing body of such municipality declaring that such citizens are incorporated as the "Improvement Authority of\_\_\_\_\_." Within five days after the adoption of such resolution by the governing body, the clerk shall transmit a certified copy thereof to-



gether with a complete record of all proceedings had in regard to the incorporation of such authority, to the office of the Secretary of State of the State of Alabama where it shall be filed as a public record. It shall be the duty of the Secretary of State to furnish to the State Auditor on the first day of October of each year the names of the authorities which have been incorporated pursuant to this Act with a statement of the date of the resolution declaring the incorporation of such authority and such statement shall be published by the State Auditor in his annual report under a separate and appropriate heading and such statement so published shall be conclusive evidence of such incorporation.

Section 13. **AUTHORITY TO BE A PUBLIC CORPORATION.** Each authority incorporated under this act shall be a public corporation in perpetuity under its corporate name, and the same shall in that name be a body politic and corporate, with power of perpetual succession. The power of each authority shall be vested in and exercised by a majority of the members of the board of trustees of the improvement authority in office.

Section 14. **APPOINTMENT, REMOVAL AND TERMS OF BOARD OF TRUSTEES.** Each improvement authority shall have a board of trustees. Such Board shall consist of three members. When the authority is composed of an incorporated city or town the trustees shall be appointed by the governing body of the city or town. When the authority is composed in whole or in part of the inhabitants of an unincorporated area, the governing body of the county in which such area is composed appoints the trustees. In the event the unincorporated area is composed of parts of different counties, the Governor of the State shall appoint the board of trustees. All vacancies on the Board of Trustees shall be filled by the proper authority herein designated. The first appointment of the members of the Board of Trustees shall be made not later than thirty (30) days after the Improvement Authority shall have become an incorporation as herein provided for. The term of the office of the members of the Board of Trustees shall be one, two and three years respectively dating from January 1st of the year in which such appointments are made and thereafter the term of office of the members are for three years. Members shall hold office until their successors are appointed and qualify. Appointment to fill a vacancy shall be for the unexpired term. The appointing authority may remove any member within the term for which he shall have been appointed, after giving to such member a copy of the charges against him and an opportunity to be heard in his defense and the action of the appointing authority shall be final and non-reviewable.

Section 15. **ORGANIZATION OF BOARD, OFFICERS.** Promptly after their appointment the members of the board shall meet to organize. At such meeting and at the first meeting in each

year thereafter the members of the board shall choose from their number a president and a secretary.

Section 16. **POWERS OF BOARD OF TRUSTEES.** The board of trustees shall have power to do all things necessary or convenient in conducting and developing the enterprise, including but not limited to: (a) The power to adopt and amend by-laws for the management and regulation of its affairs and the enterprise in which it is engaged; (b) To use, with the consent of the municipality, the agents, employees or facilities of such municipality and to provide for payment of the agreed proportion of the cost therefor; (c) To appoint officers, agents and employees and to fix their compensation; (d) To inquire into any matter relating to the affairs of the authority, to compel by subpoena the attendance of witnesses and the production of books and papers material to any such inquiry, to administer oaths to witnesses and to examine witnesses and such books and papers; (e) To appoint an advisory board to assist in the formation of proper policies in respect of the enterprise; (f) To execute instruments.

Section 17. **COMPENSATION OF MEMBERS AND EMPLOYEES.** The members of the board shall not be entitled to compensation for their services but shall be entitled to reimbursement for all expenses incurred in connection with the performance of their duties. The board may delegate to one or more of its members, or to its agents and employees, such powers and duties as it may deem proper.

Section 18. **MEMBERS NOT TO HOLD MUNICIPAL OFFICE.** The members of the board shall not hold any public office under the municipality.

Section 19. **TRANSFER OF JURISDICTION TO AUTHORITY.** Jurisdiction, supervision, possession and control of all property, real and personal, tangible and intangible, together with all easements, water rights and other rights therein and all other adjuncts, including books, papers and records, pertaining to any plant or system owned, managed, supervised, possessed and controlled by a municipality for the purpose of furnishing any services named in the petition pursuant to which an authority is incorporated shall devolve and are hereby conferred and imposed upon such authority. The provisions of any laws regulating the exercise of the powers and the performance of the duties of officers and employees of such municipality shall continue in full force and effect until the board of trustees of such authority by its by-laws confer such powers upon its officers, agents or employees or imposes such duties upon its officers, agents or employees.

Section 20. **TRANSFER OF OFFICERS AND EMPLOYEES.** Officers and employees of any board, commission or department in or of the municipality may be transferred to the authority and shall be eligible for such transfer and appointment

without examination to offices and positions under such authority. The transfer and appointment of such officers and employees shall be made in accordance with the provisions of any agreement which may be entered into between the governing body of such municipality and the board of trustees of such authority.

**Section 21. OBLIGATIONS OF CONTRACTS NOT IMPAIRED.** The obligations of contracts of the municipality shall not be impaired by this act. Moneys to provide for the payment of notes, bonds or other obligations issued by the municipality in relation to any plant or system, the management, supervision, possession and control of which shall devolve upon such authority, shall be raised, collected and paid for by such municipality as though this law had not been enacted, except that in the event such notes, bonds or other obligations constitute a charge, lien or other encumbrance upon the revenue of such plant or system, the duty to raise, collect and apply such revenues to the payment of such notes, bonds or other obligations shall rest upon such authority rather than upon the municipality and such notes, bonds or other obligations shall remain a charge, lien, or other encumbrance upon such revenues. All contracts of such municipality in relation to any such plant or system shall be assumed by such authority and the terms and conditions to be performed on the part of such municipality shall be complied with and performed by the board of trustees of such authority and the benefits of such contracts shall inure to the benefit of such authority.

**Section 22. ENLARGEMENT OF SERVICES.** The authority shall not include in an enterprise in which it is engaged the furnishing of any services not named in the petition provided for by this act unless the furnishing of such additional services shall be submitted to and approved by the electors of the territory of such authority. If the board of trustees of such authority shall by resolution determine to submit the question of furnishing such additional services, or if a petition requesting the submission of such a question in the general form and executed as provided for petitions for the submission to vote on the question of incorporating an authority under this act shall be filed with the Secretary of the board of trustees of the authority, such question shall be submitted for the approval of such electors at a special election in the territory held not less than sixty days after the adoption of such resolution or the filing of such petition or at the next general election in the municipality if the same be held not less than sixty days after such adoption or filing. The mode or method of procedure for the submission of such question, the publication of notice therefor, the conduct thereof, the canvassing of votes thereat and the proclamation of result shall conform as nearly as may be reasonable with the mode or method of procedure for the submission of the question of the incorporation of such authority at an

election as provided in this Act, except that the board of trustees of each authority shall act in the place and stead of the governing body and the secretary of the board of trustees shall act in the place and stead of the clerk of the municipality. If the number of votes cast in favor of the furnishing of such additional services exceeds the number of votes cast against the furnishing of such additional services at such election, the authority shall within a reasonable time furnish such additional services. The provisions of this act relative to the jurisdiction of the authority and the transfer of property, powers and duties to the authority after the incorporation thereof shall apply to the enlargement of the services thereof in like manner and to the same extent as such provisions apply to the services furnished by the authority by virtue of the petition for incorporation.

**Section 23. DIMINISHING OF SERVICES.** The services of the authority shall not be diminished so as to exclude from an enterprise in which the authority is engaged the furnishing of any services unless and until all bonds of the authority, and interest thereon, issued by the authority pursuant to this act shall have been finally paid and discharged, except with the consent of the holders of seventy-five per centum (75%) in amount of such bonds then outstanding secured in whole or in part by a pledge of revenues derived from the furnishing of the services to be excluded. Thereafter such services may be diminished, and the mode or method of procedure for the diminishing of such services shall conform as nearly as may be reasonable to the provisions of this act relative to the manner of enlarging the services of such authority.

**Section 24. NUMBER OF SPECIAL ELECTIONS.** Not more than one special election shall be held in any territory upon the question of enlarging or diminishing services and not more than two special elections upon the question of incorporating an authority in any calendar year.

**Section 25. CORPORATE PURPOSE OF AUTHORITY AND GENERAL GRANT OF POWER.** An authority shall be incorporated for the purpose of conducting and developing the enterprise in which it may engage in such manner that the services afforded by such enterprise shall be available for public uses and to all the inhabitants of the municipality and the surrounding area for domestic and industrial uses at the lowest cost consistent with sound economy and prudent management. Every authority incorporated under this act is hereby vested with all powers necessary and requisite for the accomplishment of such purpose for which such authority is incorporated capable of being delegated by the Legislature of the State of Alabama. The authority shall have the power to acquire, construct, reconstruct, extend, improve and main-

tain and operate any plant, works, system, facilities or properties together with all parts thereof and appurtenances thereto, used or useful for the generation, production, transmission and distribution of electric energy, natural or artificial gas or mixtures thereof, for obtaining a water supply, and the storage and distribution of water, for the collection, disposal, and treatment of sewage, telephone system and service, and generally for the conduct and development of the enterprise. No enumeration of particular powers hereby granted shall be construed to impair any general grant of power herein contained, or to limit any such grant to a power or powers of the same class or classes as those so enumerated. The authority is empowered to do all acts necessary, proper, or convenient in the exercise of the powers granted under this act.

Section 26. GRANT OF SPECIFIC POWERS. Subject only to the constitution of the State of Alabama each authority incorporated under this act shall have power: 1. To sue and be sued. 2. To have a seal and alter the same at pleasure. 3. To acquire, by purchase, gift, devise, lease or exercise of the power of eminent domain, or other mode of acquisition, hold and dispose of property real and personal, tangible and intangible and interest therein, in its own name, subject to mortgages or other liens or otherwise and to pay therefor in cash or on credit, and to secure and procure payment of all or any part of the purchase price thereof on such terms and conditions as it shall determine. 4. To make and enter into contracts, indentures of trust, leases, and bonds. 5. To borrow money and to issue negotiable bonds and provide for the rights of the holders thereof. 6. To fix, maintain and collect rates and charges for any services. 7. To pledge all or any part of its revenues. 8. To make such covenants, in connection with the issuance of bonds or in order to secure the payment of bonds, that a private business corporation can make under the general laws of the State, notwithstanding that such covenants may operate as limitations on the exercise of any of the powers granted by this act. 9. To enter on any lands, waters, and premises for the purpose of making surveys, soundings and examinations. 10. To pay to the municipality the whole or any part of the amount necessary to be raised by taxation by such municipality in order to pay when due notes, bonds or other obligations issued by such municipality in relation to any plant or system, the management, supervision, control and possession of which is transferred pursuant to this act from such municipality to such authority. 11. To perform any and all acts and do any and all things by contract or contracts, or under, through or by means of its own officers, agents and employees. 12. To purchase, produce or otherwise secure, water, gas, and electric energy. 13. To exercise all powers of eminent domain now or hereafter conferred on municipalities in this State.

Section 26-1/2. No bonds or other evidence of indebtedness of an authority incorporated under this Act shall be issued and/or sold until consent to the issuance and sale thereof shall have been given by the Public Works Board of Alabama or in the event no such body is in existence at the time, by the Alabama Public Service Commission, to be evidenced by resolution or order under seal of such body granting such consent. Such consent shall be granted only after a public hearing and after a petition requesting such consent has been duly filed by such authority with the secretary of such Board more than five days before such public hearing. Such petition shall specify the plan or program of the authority and the uses to which it is proposed to put the proceeds of such issue and such other matters as are necessary fully to advise such Board of the nature of the enterprise and said petition shall include such other information as may be required by the rules of the Board. The Board shall grant such consent only after it finds that such issue and/or sale serves some public need, and is in the public interest. It shall be unlawful for the authority to use the proceeds of any such issue and/or sale contrary to the plan and purposes presented to the Board in obtaining its consent thereto. The authority applying for such consent is authorized to pay such fees as shall be lawfully assessed against it by the body to which it applies for such consent.

Section 27. MONEYS OF AN AUTHORITY. All moneys of an authority incorporated under this act from whatever source derived, shall be paid to the Treasurer of the Municipality. In cases where the authority is composed of an unincorporated area the moneys of the authority shall be paid to the Treasurer of the county or the designated county depository. Where the unincorporated area is located in two or more counties the authority shall designate the Treasurer or the depository of one of the counties as a depository of the moneys of the authority. The custodian of the moneys of the authority, shall be an agent of the authority, who shall not commingle said moneys with any other moneys. Said moneys shall be deposited in a separate bank account or accounts. The moneys in said accounts shall be paid out on check or warrant of said treasurer on requisition of the board of trustees or of such other person or persons as the authority may authorize to make such requisitions. All deposits of such money shall, if required by such treasurer, or by the board of trustees of the authority, be secured by obligations of the United States or of the State of Alabama of a market value equal at all times to the amount of the deposit and all bank and trust companies are authorized to give such security for such deposits. The official of the city or County Treasurer, as the case may be shall be liable for a proper accounting of the moneys of the authority to the same extent and

in the same way and manner of the moneys of the State or the counties. This section shall not be construed as limiting the power of the authority to agree as to the custody and disposition of moneys or revenues for the security of its bonds, provided however, that the moneys of the authority shall not be entrusted to any person, firm or corporation unless adequate security for its protection shall be given.

Section 28. **AUDIT OF BOOKS.** The municipality or in case of an unincorporated area in one county, the county governing body, and in an unincorporated area in two or more counties, the Governor of Alabama, is hereby authorized and empowered from time to time to examine the accounts and books of such authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing. Such examination shall be made at least once in every year, a copy of such examination to be furnished the board of trustees of such authority, together with a copy of any recommendations made that the examiner may deem advisable to him. A condensed statement and analysis of the financial standing and condition of the said authority shall be published in a newspaper circulating in the territory of the authority. Upon request of a trustee or trustees of any bond holders, the Governor of Alabama shall have a special audit and examination of the accounts of the books of such authority made at the expense of the authority.

Section 29. **BONDS OF AN AUTHORITY.** Bonds of an authority shall be authorized by resolution of the board of trustees of such authority and may be issued in one or more series, may bear such date or dates, mature at such time or times not exceeding forty years from their respective dates, bear interest at such rate or rates, not exceeding six per centum per annum, payable semi-annually, be in such denominations, be in such form, either coupon or registered, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, be declared or become due before the maturity date thereof, as such resolution or resolutions may provide. Said bonds may be issued for money or property (at public or private sale for such price or prices) as such authority shall determine, provided that the interest cost to maturity of the money or property (at its value as determined by such board of trustees, the determination of which shall be conclusive), received for any issue of said bonds, shall not exceed six per centum per annum, payable semi-annually. Pending the preparation or execution of definitive bonds, interim receipts or certificates or temporary bonds may be delivered to the purchaser or purchasers of said bonds. Said bonds may be purchased by such authority out of any funds available for such

purpose at a price not more than the principal amount thereof and accrued interest, and all bonds so purchased shall be cancelled.

**Section 30. LIABILITY ON BONDS AND OTHER OBLIGATIONS.** The bonds and other obligations of an authority incorporated under this act shall not be a debt of the State of Alabama nor a debt of the municipality and neither the state nor the municipality shall be liable in any way whatsoever thereon nor may the holder of any such bonds or obligations compel the levy of any taxes for its payment. Said bonds shall not be payable out of any funds other than those of the authority issuing the same and each bond shall contain a recital to that effect. Neither the members of the board of trustees nor any person executing said bonds shall be liable personally on said bonds by reason of the issuance thereof.

**Section 31. RIGHTS AND REMEDIES OF BOND HOLDERS.** In addition to all other rights and all other remedies any holder or holders of any bond or bonds of any authority incorporated under this act, including a trustee for bond holders, shall have the right, subject to any contractual limitations binding upon such bond holder or holders or trustee, and subject to the prior or superior rights of others: 1. To sue on the bonds. 2. By mandamus or other suit, action or proceeding, at law or in equity, to enforce his rights against such authority and the board of trustees of such authority, including the right to require such authority and such board of trustees to fix and collect rates and charges adequate to carry out any agreement as to, or pledge of, the revenues produced by such rates or charges, and to require such authority and such board to carry out any other covenants and agreements with such bond holder and to perform its and their duties under this act. 3. By action or suit in equity to require such authority to account as if it were the trustee of an express trust for such bond holder. 4. By action or suit in equity to enjoin any acts or things which may be unlawful or a violation of the rights of such bond holder. 5. By suit, action or proceeding in any court of competent jurisdiction to obtain in the event of a default by the authority in the payment when due of his or their bond or bonds or interest thereon, which default shall have continued for a period in excess of one hundred twenty days, the appointment of a receiver of the enterprise in which the authority is engaged or any part or parts thereof, who may enter and take possession of such enterprise or any part or parts thereof, including all property lands, property rights, easements and other adjuncts of the enterprise in which the authority shall have been engaged in, and such receiver may engage in such enterprise, furnish the service or services thereof, and operate and maintain the system, fix and collect



and receive all revenues thereafter arising therefrom in the same manner as such authority itself might do, and shall deposit all such moneys in a separate account or accounts and apply the same in accordance with the obligations of such authority as the court shall direct.

**Section 32. CONSENT OF MUNICIPAL CORPORATIONS.** No improvement authority incorporated under this act shall furnish any service to the inhabitants of a city or town, (other than the municipality) except with the consent of the governing body of such city or town. Except as herein provided the authority may furnish services for public and private uses in the area within twenty-five miles from the boundaries of its territory.

**Section 33. AUTHORITY AND INDEPENDENT INSTRUMENTALITY.** This act is intended to aid the state in the execution of its duties by providing appropriate and independent instrumentalities of the state with full and adequate power to fulfill their functions. Except as in this act otherwise expressly provided, it shall not be necessary for any improvement authority incorporated under this act to obtain prior to engaging in an enterprise of furnishing a service, or acquiring, constructing, reconstructing, improving or extending a plant system, to obtain any certificate of convenience or necessity, franchise, license, permit or any other authorization from any board, bureau, commission, department or other like agency of the state or any county, city or town of the state.

**Section 34. AGREEMENT OF THE STATE.** The State of Alabama does hereby pledge to and agree with the holders of bonds issued by an authority pursuant to this act that the state will not limit or alter the rights and powers hereby vested in an authority incorporated under this act to fix and collect such rates and charges as may be necessary or advisable in order to produce sufficient revenue to meet all the expenses of maintenance and operation and to fulfill the terms of any agreements made with the holders of such bonds, or in any way impair the rights and remedies of the holders of such bonds, until such bonds together with interest thereon, and interest on any unpaid installments of interest, and all costs and expenses in connection with any suits, actions of proceeding by or on behalf of such bond holders are fully paid and discharged.

**Section 35. SEPARABILITY OF PROVISIONS.** If any provision of this act, or the application of such provision to any person, body, or circumstances shall be held invalid, the remainder of this act, or the application of such provision to persons, bodies, or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 36. ACT COMPLETE IN ITSELF. This act is complete in itself and shall be controlling. The provisions of any other law, as to the subject matter hereof, are superseded and shall not apply to an authority incorporated under this act. This act shall become effective immediately upon its passage and approval.

Approved February 7, 1935.

No. 41)

(H. 129—Welch

### AN ACT

To authorize any cities located within the boundaries of housing authorities, the State, its subdivisions and agencies to cooperate with housing authorities and the United States of America by rendering services, conveying or leasing property and providing for streets and roads; and to authorize corporate agencies of the United States and corporations receiving aid from the United States to exercise the power of eminent domain to acquire property for housing projects.

*Be it enacted by the Legislature of Alabama:*

Section 1. FINDING AND DECLARATION OF NECESSITY. It is hereby declared that unsanitary or unsafe dwelling and public school accommodations exist in various cities of the State, and in the area surrounding such cities, and that consequently persons of low income are forced to reside in and use such dwelling and public school accommodations, that these conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the citizens of the State and impair economic values; that the clearance, replanning and reconstruction of the areas in which unsanitary or unsafe housing conditions exist and/or the providing of safe and sanitary dwelling and public school accommodations at such rentals that persons who now live in unsafe or unsanitary or congested dwelling accommodations or in overcrowded and congested dwelling accommodations, can afford to live in safe or sanitary or uncongested dwelling accommodations, are public uses and purposes for which private property may be acquired, that it is in the public interest that work on such projects be instituted as soon as possible in order to relieve unemployment which now constitutes an emergency; and the necessity in the public interest for the provision hereinafter enacted, is hereby declared as a matter of legislative determination.

Section 2. DEFINITIONS. The following terms, whenever used or referred to in this Act shall have the following respective meanings, unless a different meaning clearly appears from the context. (1) The term "housing authority" shall mean any housing authority organized pursuant to Housing Authorities Law of Alabama. (2) The term "city" shall mean any city or incorporated

town in the State of Alabama. (3) The term "housing project" shall mean any undertaking to demolish, clear, remove, alter or repair unsafe or unsanitary housing and/or to provide dwelling and/or public school accommodations for persons who now live in or use unsafe, unsanitary or congested dwelling and/or public school accommodations, and said term may also include such recreational or social assemblies for educational, health or welfare purposes, and such necessary utilities as are designed primarily for the benefit and use of the occupants of such dwelling accommodations.

Section 3. CONVEYANCE, LEASE OR AGREEMENT OF CITY IN AID OF HOUSING PROJECT. For the purpose of aiding and cooperating in the planning, construction and operation of housing projects, the State, any county, city, municipality, or agency of the State may, upon such terms, and for such consideration as it may determine: (a) Sell, convey or lease any of its property to a housing authority or the United States of America or any agency thereof; and (b) to the extent that it is within the scope of each of their respective functions, (1) cause the services customarily provided by each of them to be rendered for the benefit of the occupants of such housing projects, and (2) provide and maintain parks and sewage, water and other facilities adjacent to or in connection with housing projects, and (3) enter into any agreement to open, close, pave, install, or change the grade of streets, roads, roadways, alleys, sidewalks, or other such facilities, to change the city map, to plan, replan, zone or rezone any part of the city. Any city may incur the entire expense (subject to such reimbursement by the Authority as the City shall determine) of any such public improvements without assessment against abutting property owners. Any statute to the contrary notwithstanding, any sale, conveyance, lease or agreement provided for in this section may be made by the State, any county, city, municipality or agency of the State without appraisal, public notice, advertisement or public bidding.

Section 4. EMINENT DOMAIN FOR HOUSING PROJECTS. Any corporation, which is an agency of the United States of America, shall have the right to acquire by eminent domain any real property, including improvements and fixtures thereon, which it may deem necessary for a housing project being constructed, operated or aided by it or the United States of America. Any corporation borrowing money or receiving other financial assistance from the United States of America or any agency thereof for the purpose of financing the construction or operation of any housing project or projects, the operation of which will be subject to public supervision or regulation, shall have the right to acquire by eminent domain any real property, including fixtures and improvements thereon, which it may deem necessary for such proj-

ect. A housing project shall be deemed to be subject to public supervision or regulation within the meaning of this Act if the rents to be charged by it are in any way subject to the supervision, regulation or approval of the United States of America, the State or any of their agencies, or by a housing authority, city or county, whether such right to supervise, regulate or approve be by virtue of a statute, contract or otherwise. Any such corporate agency of the United States of America or any such corporation, upon the adoption of a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use, may exercise the power of eminent domain pursuant to the provisions of either: (a) Sections 7476 to 7533 Chapter 286, entitled EMINENT DOMAIN, Code of Alabama, 1923. (b) Pursuant to the provisions of any other applicable eminent domain laws of the State.

Section 5. SEVERABILITY. That if anyone or more sections, clauses, sentences, or parts of this Act shall for any reason be questioned in any court, and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof but shall be confined in its operation to the specific provisions so held unconstitutional or invalid, and the inapplicability or invalidity of any section, clause or provision of this Act in any one or more instances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

Section 6. EMERGENCY CLAUSE. This Act shall be effective immediately upon its passage and approval.

Approved February 7, 1935.

No. 42)

(H. 130—Hamner

## AN ACT

To provide for the creation of power districts to define the meaning of certain terms and words used in this Act; to prescribe the powers and duties of such power districts; to provide for the organization, alteration, consolidation and dissolution thereof; to authorize such districts to conduct and operate utilities for the production, transmission or distribution of electric energy, and issue bonds and providing for the payment of such bonds; to provide for the Government and control of such power districts, the selection of directors, compensation and expenses thereof; to provide for the rights and remedies of holders of bonds issued by such power districts.

*Be it enacted by the Legislature of Alabama:*

Section 1. DECLARATION OF POLICY. That economic conditions accentuated and brought into bold relief by the present depression require a program to make available an abundant sup-

ply of electricity at the lowest cost consistent with sound economy and prudent management for use in the rural areas for the purpose of raising the standard of living in these areas, promoting more efficient use and operation of agricultural resources and of providing employment. Urgent necessity for providing employment, and experience in other methods of meeting this problem demonstrate the necessity for providing a simple and expeditious procedure for carrying out this program. It is hereby declared that the procedure provided in this act is the only feasible and practicable method for creating the administrative units described therein for making available to the state federal assistance to aid in carrying out the purposes of this act.

Section 2. DEFINITIONS. That unless the context otherwise requires: (1) "Municipal power district," "power district" or "district" means municipal power district organized under this Act, either as originally organized or as the same may be from time to time altered or amended. (2) "Municipality" means any city or town. (3) "Governing body", whenever used in relation to any municipality, means the body or board, by whatsoever name known, having charge of the governing of a municipality, and shall be held to include the mayor or other chief executive officers of such municipality in any case wherein the concurrence or approval of such officer is required by the law governing such municipality for the adoption of any municipal ordinance or resolution or other municipal act provided for in this Act. (4) "Board of directors," "directors" or "Board" means the board of directors of a municipal power district selected as provided in this Act, duly constituted, organized and acting as a board. (5) "Commission" means Public Service Commission of the State of Alabama. (6) "Public utility" or "utility" means the plant, work, system facilities or properties together with all parts thereof and appurtenances thereto, including contract rights, used and useful primarily for the production, transmission or distribution of electric energy to or for the public for any purpose.

Section 3. POWER DISTRICT; CREATION; ALTERATION; CONSOLIDATION; DISSOLUTION. That a municipal power district may be created as hereinafter provided and when so created shall be considered a municipal corporation and may exercise the powers herein granted. (1) PROCEDURE FOR ORGANIZATION. The governing body of any municipality proposed to be included in a district shall pass a resolution declaring that the public interest or necessity demands the creation and maintenance of a municipal power district, describing the territory to be included in the proposed district, and file a certified copy thereof in duplicate with the commission. Upon receipt of the resolution the commission shall make an investigation of the propriety of crea-

ting the proposed district, and of the character of utility feasible and economically desirable for the district, and of the territory to be served. After investigation the commission shall issue an order approving or disapproving the creation of the district and if it approves determining the character of utility appropriate to the district. If the commission finds (a) that the public convenience and necessity requires the creation of a power district, and (b) that the creation of a power district is economically sound and desirable, it shall enter an order so finding, approving the creation of the district and defining its territorial limits, a certified copy of which order the commission shall file with the Secretary of State. Thereupon the district shall be and constitute a municipal corporation as hereinbefore provided. (2) ALTERATION. Whenever the Commission shall after hearing determine that it is in the public interest and in the interest of efficient and economical operation of a utility to alter the territorial limits of a district it shall so order and file a certified copy of such order with the Secretary of State. Thereupon the territorial limits of the district shall be considered altered in accordance with such order. (3) CONSOLIDATION. Two or more districts may be consolidated by a determination of the board of each district, fixing the terms and conditions of such consolidation. Certified copies of such determination shall be filed with the commission. If the commission finds that such consolidation is in the public interest and in the interest of efficient and economical utility service, it shall approve such consolidation and file a certified copy of the order approving the same with the Secretary of State. Thereupon the consolidation shall be effective to create a single district. Pre-existing rights and liabilities shall not be affected by such consolidation. (4) DISSOLUTION. Whenever the commission shall determine that the continued existence of the district is not in the public interest, and is not in the interest of efficient and economical utility service it shall make an order to such effect, and file a certified copy of such order with the Secretary of State. Whereupon the district shall cease to continue as a body corporate for the purpose of doing business, but shall continue as such for such period as the commission may determine to settle the business of the district, wind up its affairs, dispose of its assets and settle its obligations, and for no other purpose. Under such circumstances the directors, shall have the powers of receivers in equity, subject to the supervisory control of the commission, to determine what is in the best interests of creditors and the users of the service of the district. In the event of dissolution the assets of the district and the proceeds thereof shall be used first to pay the expenses of settling the affairs of the district, then the creditors in the order of their priority, and any surplus remaining shall be divided among and paid to the municipalities in the dis-

trict in proportion to the gross operating revenues of the district for the last five years of its operation derived from payment for services furnished within the territorial limits of each municipality.

**Section 4. CORPORATE POWERS OF THE DISTRICT.**

(1) **CORPORATE PURPOSE.** A district shall be created for the purpose of conducting and operating a utility, and to carry out such purpose shall have power and authority to acquire, construct, reconstruct, operate, maintain, extend or improve any utility within or without the district, and to furnish, deliver and sell to the public and to any municipality and to the state and any public institution heat, light and power service and any other service, commodity or facility which may be produced or furnished in connection therewith. For said purposes the district is granted and shall have and exercise the right freely to use and occupy any public highway, street, way or place reasonably necessary to be used or occupied for the maintenance and operation of such utility or any part thereof, subject to such local regulations as may be imposed in connection therewith by any regulations of the governing body of the municipality in which such highway, street, way or place is located.

(2) **GENERAL POWERS.** Any district created pursuant to the provisions of this act shall be vested with all the powers necessary and requisite for the accomplishment of the purpose for which such district is created, capable of being delegated by the legislature. No enumeration of particular powers, herein created shall be construed to impair or limit any general grant of power herein contained nor to limit any such grant to a power or powers of the same class or classes as those enumerated. The district is empowered to do all acts necessary, proper or convenient in the exercise of the powers granted under this act. (3) **SPECIFIC POWERS.** Any district created pursuant to this statute shall have the power: (a) To sue and be sued. (b) To have a seal. (c) To acquire by purchase, gift, devise, lease or exercise of the power of eminent domain or other mode of acquisition, hold and dispose of real and personal property of every kind within or without the district, subject to mortgages or any other liens. (d) To make and enter into contracts, conveyances, mortgages, deeds of trust, bonds or leases. (e) To incur debts, to borrow money, to issue negotiable bonds and to provide for the rights of holders thereof. (f) To fix, maintain and collect rates and charges for any service. (g) To pledge all or any part of its revenues. (h) To make such covenants in connection with the issuance of bonds, or to secure the payment of bonds, that a private business corporation can make under the general laws of the state, notwithstanding that such covenants may operate as limitations on the exercise of any power granted by this act.

**Section 5. GOVERNMENT OF THE DISTRICT.** (1) **BOARD OF DIRECTORS.** The government of the district shall

be vested in a board of three directors to be appointed by the governor within ten days after the creation and incorporation of the district. (2) **SELECTION OF DIRECTORS, TENURE.** The regular term of directors of the district after the first term shall be four years. Each director shall hold office until his successor is selected and qualified. Each director shall before entering upon discharge of his duties take and subscribe to the constitutional oath of office. Such oath shall be filed with the commission. The first directors of the district shall be selected for terms of two, three and four years, respectively. (3) **VACANCIES.** The death of a director, his resignation, his removal for cause by the appointing power, or his disability to continue for any cause to act as director, or his change of residence from the district, shall vacate the office. Within 20 days after a determination of the vacancy by the appointing power, a successor for the unexpired term shall be selected by such appointing power. (4) **COMPENSATION AND EXPENSES OF DIRECTORS.** Each director of the district shall receive compensation from the district for his services as such at the rate of \$10.00 for each day he shall attend meetings of the board, or when he is engaged upon business of the board, not to exceed the sum of \$1,000 in any one year. He shall also be entitled to be reimbursed for actual and necessary expenses incurred by him in the performance of his duties required of him by law or by resolution or vote of the board.

**Section 6. POWERS OF THE DISTRICT BOARD.** That the board of directors of any district shall have power and authority: (1) To exercise by vote, ordinance or resolution all of the general powers of the district. (2) To make all needful rules, regulations and by-laws for the management and the conduct of the affairs of the district and of the board. (3) To adopt a seal for the district, prescribe the style thereof, and alter the same at pleasure. (4) To lease, purchase, sell, convey and mortgage the property of the district and to execute all instruments, contracts, mortgages, deeds or bonds on behalf of the district in such manner as the board shall direct. (5) To inquire into any matter relating to the affairs of the district, to compel by subpoena the attendance of witnesses and the production of books and papers material to any such inquiry, to administer oaths to witnesses and to examine such witnesses. (6) To appoint and fix the salaries and duties of such officer, experts, agents and employees as it deems necessary, to hold office during the pleasure of the board and upon such terms and conditions as the board may require. (7) To do all things necessary or convenient to carry out its functions.

**Section 7. ISSUANCE OF BONDS.** That each district shall have power and is hereby authorized from time to time to issue its negotiable bonds in anticipation of the revenues from an enterprise.



Said bonds may be issued for any corporate purpose or purposes of such district. Said bonds shall be authorized by resolution of the board of such district and may be issued in one or more series, may bear such date or dates, mature at such time or times not exceeding forty years from their respective dates, bear interest at such rate or rates, not exceeding six per centum per annum, payable semi-annually, be in such denominations, be in such form, either coupon or registered, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, be declared or become due before the maturity date thereof, as such resolution or resolutions may provide. Said bonds may be issued for money or property (at public or private sale for such price or prices) as the board shall determine, provided that the interest cost to maturity of the money or property (at its value as determined by such board, the determination of which shall be conclusive), received for any issue of said bonds, shall not exceed six per centum per annum, payable semi-annually. Said bonds may be repurchased by the district out of any funds available for such purpose at a price not more than the principal amount thereof and accrued interest, and all bonds so repurchased shall be cancelled. Pending the preparation or execution of definitive bonds, interim receipts or certificates or temporary bonds may be delivered to the purchaser of said bonds.

Section 71½. No bonds or other evidence of indebtedness of a district created under this Act shall be issued and/or sold until consent to the issuance and sale thereof shall have been given by the Public Works Board of Alabama or in the event no such body is in existence at the time, by the Alabama Public Service Commission, to be evidenced by resolution or order under seal of such body granting such consent. Such consent shall be granted only after a public hearing and after a petition requesting such consent has been duly filed by such district with the secretary of such Board more than five days before such public hearing. Such petition shall specify the plan or program of the district and the uses to which it is proposed to put the proceeds of such issue and such other matters as are necessary fully to advise such Board of the nature of the corporate purpose in furtherance of which such issue is proposed and said petition shall include such other information as may be required by the rules of the Board. The Board shall grant such consent only after it finds that such issue and/or sale serves some public need, and is in the public interest. It shall be unlawful for the district to use the proceeds of any such issue and/or sale contrary to the plan and purposes presented to the Board in obtaining its consent thereto. The district applying for such consent is authorized to pay such fees as shall be lawfully as-

sessed against it by the body to which it applies for such consent.

**Section 8. RIGHTS AND REMEDIES OF BOND HOLDERS.** That in addition to all other remedies, any holder of a bond of any district incorporated under this act, including a trustee for bond holders, shall have the right, subject to any contractual limitations binding upon such bond holders or trustee, and subject to the prior or superior rights of others: (1) By mandamus or other suit, action or proceedings, at law or in equity, to enforce his rights against such district and the board of such district, including the right to require such district and such board to fix and collect rates and charges adequate to carry out any agreement as to, or pledge of, the revenues produced by such rates or charges, and to require such district and such board to carry out any other covenants and agreements with such bond holder and to perform its and their, duties under this act. (2) By action or suit in equity to enjoin any acts or things which may be unlawful or a violation of the rights of such bond holder. (3) By action or suit in equity to require such authority to act as if it were the trustees of an express trust for such bond holder. (4) By suit, action or proceeding in court exercising equitable jurisdiction to obtain the appointment of a receiver of the enterprise in which the district is engaged or any part or parts thereof, who may enter and take possession of such utility or any part or parts thereof, including all property land, property rights, easements and other adjuncts of the utility, and such receiver may operate and maintain the same, and collect and receive all revenues thereafter arising therefrom in the same manner as such district itself might do, and shall deposit all such moneys in a separate account or accounts and apply the same in accordance with the obligations of such district as the court shall direct.

**Section 9. MUNICIPAL AID.** That any municipality situated within the territorial limits of a district may advance funds to such district to pay the preliminary organization and administration expenses thereof, on such terms of repayment as the governing body of such municipality shall determine. Notwithstanding the provisions of any law to the contrary, any such municipality is authorized and empowered to borrow money for a period not to exceed one year from the date of such borrowing, for the purpose of making such advances.

**Section 10. ACT COMPLETE IN ITSELF.** That this act is complete in itself and shall be controlling. The provisions of any other law, general, special or local, as to the subject matter hereof, are superseded and shall not apply to any authority incorporated under this act.

**Section 11. SEPARABILITY OF PROVISIONS.** That if any provision of this act, or the application of such provision to any person, body, or circumstances shall be held invalid, the re-

mainder of this act, or the application of such provision to persons, bodies or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Section 12. **SHORT TITLE.** This act may be cited as "The Power District Law."

Section 13. **TIME OF TAKING EFFECT.** This act shall take effect upon its passage and approval.

Approved Feb. 7, 1935.

No. 44)

(H. 132—S. B. Jones

### AN ACT

To authorize the creation and incorporation of a Commission, providing for its powers and duties, authorizing it to lease or purchase construct and reconstruct Highway Bridges, approaches and appurtenances thereto, across any river in the State of Alabama or across any body of water separating the main land of the State of Alabama from any island forming a part of the State of Alabama, to maintain and operate said bridges, approaches and appurtenances thereto, and charge tolls thereon, and to issue bonds; providing for the payment of such bonds and providing for the rights and remedies of bondholders.

*Be it enacted by the Legislature of Alabama:*

Section 1. **Creation and organization of commission.** That the creation and incorporation of a commission are hereby authorized, for the purposes of constructing or reconstructing highway bridges, approaches and appurtenances thereto, across any river in the State of Alabama, or across any body of water separating the main land of the State of Alabama from any island forming a part of the State of Alabama, to provide for necessary funds for such purposes by issuing bonds and to operate and maintain any such bridge or bridges, together with approaches and appurtenances thereto, for toll until the cost of construction or reconstruction shall have been paid. Said commission shall consist of five members, duly qualified to hold office under the Constitution and Laws of Alabama, who shall be appointed by the Governor of the State and such members shall be deemed to take office as of the date of appointment and one member shall hold office for a term of two years from the date of appointment, one member shall hold office for a term of three years from the date of appointment, one member shall hold office for a term of four years from the date of appointment, one member shall hold office for a term of five years from the date of appointment, and one member shall hold office for a term of six years from the date of appointment, and the Governor shall designate the term of office of each member appointed. Their successors shall be appointed in like manner for a term of six years and vacancies in the office of such commission occurring otherwise

than by expiration of office shall also be filled by the Governor by appointment for the unexpired term. The Chairman of said Commission shall be appointed by the said Governor from among the members of said Commission and in the event of a vacancy occurring in the office, said Governor shall also appoint one of the members to succeed to the office of Chairman, and said Governor may remove any member of the Commission for inefficiency, neglect of duty or misconduct in office, giving him a copy of the charges against him and an opportunity of being heard in person or by counsel in his defense upon not less than fifteen days notice. The members of said Commission shall be entitled to compensation only when actually rendering service for said Commission and the compensation shall not be more than \$1.00 per diem and traveling expenses and the number of days per year for which compensation may be received shall not exceed 52. The power of said Commission shall be vested in and exercised by the majority of the members of the Commission then in office. Said Commission may delegate to one or more of its members or its officers, agents, and employees such power and duties as it may deem proper, and shall appoint a Treasurer from among its members who will act as custodian of all of the funds, from whatever source derived, received by said Commission, and shall deposit said moneys in a separate account or accounts in a bank or trust company which is duly qualified and doing business in the State of Alabama. Said Commission shall be a public body and a body corporate and politic upon the completion of the taking of the following proceedings: The members of the Commission shall present to the Secretary of State of Alabama an application signed by them, which shall set forth (1) the name, official designation and official residence of each of the members of said Commission, together with a certified copy of the appointment evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire the Commission to become a body corporate and politic under this Act; (2) the term of office of each of the members and the place where, if any, the official appointment of each of said members is kept of record; (3) the name which is proposed for the corporation; (4) the location of the principal office of the proposed corporation; (5) any other matter relating to the incorporation which the members might choose to insert not inconsistent with the constitution and laws of the State of Alabama. The application shall be subscribed and sworn to by each of said members before an officer authorized by the laws of the State of Alabama to take and certify oaths, who shall certify upon the application that he personally knows the members and believes them to be the officers as asserted in the application, and that each subscribed and swore thereto in the officer's presence. The Secretary of State shall ex-

amine the application and if he finds that the name proposed for the corporation is not identical with that of a person or of any other corporation of this State or so nearly similar as to lead to confusion and uncertainty he shall receive and file it and shall record it in an appropriate book of record in his office. When the application has been made, filed and recorded, as herein provided, the Commission shall constitute a corporation under the name proposed in the application; the Secretary of State shall make and issue to the said members, a certificate of incorporation pursuant to this Act, under the seal of the State, and shall record the same with the application. The corporation shall have succession by its corporate name for thirty years, and thereafter until all its liabilities have been met and its bonds and other obligations have been finally paid and discharged.

Section 2. Definitions. The term "Commission" as used in this Act shall be construed to mean the corporation authorized to be created by Section One of this Act. The term "project" shall mean a highway bridge, together with approaches and appurtenances thereto across any river which forms a boundry line between two or more counties in this State.

Section 3. Powers of Commission. The Commission shall have power: (a) To sue and be sued; (b) To have a seal and alter the same at pleasure (c) To acquire, hold and dispose of personal property for its corporate purposes and to receive gifts, donations and contributions; (d) To acquire by purchase or condemnation real property or rights or easements therein necessary or convenient for its corporate purposes, and to use the same so long as its corporate existence shall continue, provided that no property now or hereinafter vested in or held by the State, a county, municipality or subdivision of the State shall be taken by the Commission without the authority or consent of said State, county, municipality or subdivision of the State, nor shall anything herein impair or invalidate in any way any bonded indebtedness of said State, county, municipality or subdivision of the State; (e) To make by-laws for the management and regulation of its affairs, and subject to agreements with bondholders, for the regulation of the use of any project constructed or reconstructed under the provisions of this Act, and the establishment and collection of tolls and revenues therefrom; (f) To appoint officers, agents and employees and fix their compensations; (g) To make contracts and to execute all instruments necessary or convenient; (h) To lease or purchase construct and reconstruct and to operate and maintain any project or projects; (i) To enter on any lands, waters and premises for the purpose of making surveys, soundings and examinations thereto, and to request the State Highway Department for assistance in locating, designing and letting the contracts for the con-

struction or reconstruction of any project, and when requested to do so, the State Highway Department shall render such assistance; (j) To charge tolls for the use of any project subject to or in accordance with such agreements with bondholders as may be made as hereinafter provided; (k) to permit any person, firm or corporation to construct and maintain over, under, across or along any project telephone, telegraph, or electric wires and cables, gas mains, watermains and other mechanical equipment not inconsistent with the appropriate use of such project; (l) To borrow money and to issue bonds with rights to bondholders as hereinafter described; (m) To do all things necessary or convenient to carry out the powers expressly given in this Act; (n) Without limitation of the foregoing, to borrow money and accept grants from the United States Government or any corporation or agency, created, designed, or established by the United States and to enter into contracts with the United States or such corporations or agencies.

**Section 4. Form and Contents of Bonds.** The principal of and interest on bonds herein authorized to be issued by the Commission shall be payable solely from the revenues to be derived from the tolls levied and collected in connection with the operation of the project for which such bonds have been issued, and shall not constitute an indebtedness of the State or any municipality, county or political subdivision of the State within the meaning of any constitutional or statutory provision of the laws of the State. Said bonds shall be issued in the name of the corporation and shall have impressed thereon its corporate seal. The bonds shall express upon their face the particular project for which they are being issued, and there shall be a separate issue of bonds for each project undertaken by the Commission as authorized by this Act. Said bonds shall be authorized by resolution of such Commission and shall bear such date or dates, mature at such time or times, not exceeding forty years from their respective dates, bear interest at such a rate or rates, not exceeding six per centum per annum, payable semiannually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment and at such place or places, as such resolution or resolutions may provide. It shall be plainly stated on the face of each bond that the same has been issued under the provisions of this Act and that the bond and interest thereon does not constitute an indebtedness of the State or any municipality, county or political subdivision of the State within the meaning of any constitutional or statutory provision of the laws of the State. Such bonds may be sold at public or private sale for such price or prices as said Commission shall determine, provided that the interest cost to maturity or maturities of the

bonds shall not exceed six per centum per annum. Said bonds are hereby declared to be negotiable instruments.

Section 5. Covenants in Resolutions. Any resolution or resolutions authorizing such bonds may contain provisions, which shall be a part of the contract with the holders of bonds issued for any project, as to (a) Pledging the tolls and revenues of such project to secure the payment of such bonds; (b) The tolls to be charged for such project and the amounts to be raised in each year by such tolls and the use and disposition of such tolls and other revenues of such project; (c) The setting aside of reserves or sinking funds for such project or such bonds and the regulation and disposition thereof; (d) Limitations on the right of the Commission to restrict and regulate the use of the project; (e) The operation and maintenance of the project, including insurance and the disposition of insurance moneys; (f) Limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued for such project may be applied; (g) Limitations on the issuance of additional bonds for such projects; (h) the redemption of the bonds and the price or prices, at which they shall be redeemable; (i) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given.

Section 6. Remedies of Bondholders. Any holder of said bonds, including a trustee for bondholders, shall have the right subject to any contractual limitations binding upon such holder or trustee, and subject to the prior or superior rights of others; (a) By mandamus or other suit, action or proceeding, at law or in equity, to enforce his rights against the Commission, and any member thereof, including the right to require the Commission to collect tolls and revenues adequate to carry out any agreement as to, or pledge of, such tolls and revenues and to require the Commission and the members thereof to carry out any other covenants and agreements and to perform its and their duties under this Act; (b) By action or suit in equity to enjoin any acts or things which may be unlawful or a violation of the rights of such bondholder; (c) By suit, action or proceeding to obtain the appointment of a receiver in the event of a default in the payment of bonds or interest thereon issued for any such project, who may enter and take possession of the project and operate and maintain the same and collect and receive all tolls and revenues thereafter arising therefrom in the same manner as the Commission itself might do, and shall deposit all such moneys in a separate account and apply the same in accordance with the obligations of the Commission as the Court shall direct.

Section 7. Bonds not subject to municipal bond code. The bonds authorized hereunder shall not be subject to any limitations or provisions of the municipal Bond Code or any other bond laws now in force or hereafter amended, and it shall not be necessary to make publication of any resolution, notice or proceeding relating thereto.

Section 8. Bonds exempt from taxation. The bonds and interest coupons issued under the provisions of this Act are exempted from any and all State, County, Municipal and other taxation whatsoever under the laws of the State of Alabama.

Section 9. Validity of Bonds. In case any of the officers whose signatures or counter-signatures appear on the bonds or coupons shall cease to be such officers before delivery of such bonds, such signatures or counter-signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery. Any resolution authorizing any bonds hereunder shall provide that such bonds shall contain a recital that they are issued pursuant to this Act, which recital shall be conclusive evidence of their validity and the regularity of their issuance.

Section 10. Agreement of State. The State of Alabama does pledge to and agree with the holders of the bonds that the State will not limit or alter the rights hereby vested in the Commission to establish and collect such charges and tolls as may be convenient or necessary to produce sufficient revenues to meet the expenses of maintenance and operation and to fulfil the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders, are fully met and discharged.

Section 11. Construction of Act-Severability. This Act shall be construed as cumulative authority for the purposes named herein, and as to the manner and form of issuing revenue bonds for any such purpose or purposes, and shall not be construed to repeal any existing laws with respect thereto, it being the purpose and intention of this Act to create an additional alternative method for the purposes herein named. In the event that any provision or section of this Act shall be found or declared to be in conflict with the provisions of the Constitution of Alabama, the remainder of this Act shall nevertheless be valid, and effective, each part and provision hereof being hereby expressly declared to be separate and independent of any other part.

Section 12. Inconsistent Provisions in other Acts Superseded. Insofar as the provisions of this Act are inconsistent with the pro-



visions of any other act, general or special, the provisions of this Act shall be controlling.

Section 13. Effective Date. This Act shall be effective immediately upon its passage and approval.

Approved February 7, 1935.

No. 45)

(H. 133—Reeder

## AN ACT

Providing For The Formation Of Non-Profit Membership Corporations To Be Known As Electric Membership Corporations For The Purpose Of Promoting And Encouraging The Fullest Possible Use Of Electric Energy In The State By Making Electric Energy Available To The Inhabitants Of The State At The Lowest Cost Consistent With Sound Economy And Prudent Management Of The Business Of Such Corporations; Providing For The Rights, Powers And Duties Of Such Corporations; Authorizing And Regulating The Issuance Of Revenue Obligations By Such Corporations; And Providing For The Payment Of Such Obligations And The Rights Of The Holders Thereof.

*Be it enacted by the Legislature of Alabama:*

Section 1. This Act may be known and referred to as the "Electric Membership Corporation Act."

Section 2. Any number of natural persons not less than three may, by executing, filing and recording a certificate as hereinafter provided, form a corporation not organized for pecuniary profit for the purpose of promoting and encouraging the fullest possible use of electric energy in the State by making electric energy available to inhabitants of the State at the lowest cost consistent with sound economy and prudent management of the business of such corporations.

Section 3. The following terms whenever used or referred to in this Act, shall have the following meanings, unless a different meaning clearly appears from the context: (a) "corporation" shall mean a corporation formed under this Act. (b) "municipality" shall mean any county, city or town of this State. (c) "person" or "inhabitant" shall mean and include natural persons, firms, associations, corporations, business trusts, partnerships and bodies politic. (d) "energy" shall mean and include any and all electric energy no matter how generated or produced. (e) "system" shall mean and include any plant, works, system, facilities, or properties together with all parts thereof and appurtenances thereto, used or useful in the generation, production, transmission or distribution of energy. (f) "bonds" shall mean and include negotiable bonds, interim certificates or receipts, notes, debentures and all other evidences of indebtedness either issued or the payment thereof assumed by a corporation. (g) "law" shall mean any act or statute, general, special or local of this State. (h) "federal agency" shall

mean and include the United States of America, the President of the United States of America, the Federal Emergency Administrator of Public Works and any and all other authorities, agencies, and instrumentalities of the United States of America, heretofore or hereafter created. (i) "acquire" shall mean and include construct, acquire by purchase, lease, devise, gift or the exercise of the right of eminent domain in the manner now or hereafter provided by law for the exercise thereof by the State, or other mode of acquisition. (j) "improve" shall mean and include construct, reconstruct, improve, extend, enlarge, alter, better and repair. (k) "board" shall mean the board of directors of a corporation formed under this Act. (l) "member" shall mean and include each natural person signing the certificate of incorporation of a corporation and each person admitted to membership therein pursuant to law or its by-laws. (m) "service" shall mean the sale or other disposition of energy at the lowest cost consistent with sound economy and the prudent management of the business of a corporation.

Section 4. The certificate of incorporation shall be entitled and endorsed "CERTIFICATE OF INCORPORATION OF-----

-----ELECTRIC MEMBERSHIP CORPORATION" (the blank space being filled in with the name of the corporation) and shall state: (a) The name of the corporation, which name shall be such as to distinguish it from any other corporation. (b) A reasonable description of the territory in which its operations are principally to be conducted. (c) The location of its principal office and the post office address thereof. (d) The maximum number of directors, not less than three. (e) The names and post office addresses of the directors, not less than three who are to manage the affairs of the corporation for the first year of its existence, or until their successors are chosen. (f) The period, if any, limited for the duration of the corporation. If the duration of the corporation is to be perpetual, this fact should be stated. (g) The terms and conditions upon which members of the corporation shall be admitted. (h) The certificate of incorporation of a corporation may also contain any provision not contrary to law which the incorporators may choose to insert for the regulation of its business and for the conduct of the affairs of the corporation; and any provisions, creating, defining, limiting or regulating the powers of the corporation, its directors and members.

Section 5. The natural persons executing the certificate of incorporation shall be residents of the territory in which the operations of the corporation are principally to be conducted who are desirous of using electric energy to be furnished by the corporation. The certificate of incorporation shall be acknowledged by the subscribers before an officer authorized by the laws of this State take acknowledgments of deeds. When so acknowledged, the cer-

tificate may be filed in the office of the Secretary of State who shall forthwith prepare a certified copy or copies thereof and forward one to the officer charged with the duty of recording deeds in each county in which a portion of the territory of the corporation is located who shall forthwith file such certified copy or copies in their respective offices. As soon as the provisions of this Section have been complied with, the proposed corporation described in the certificate so filed, under its designated name, shall be and constitute a body corporate.

Section 6. Each corporation formed hereunder shall have a board of directors which board shall constitute the governing body of the corporation. The directors of the corporation, other than those named in its certificate of incorporation, shall be elected annually by the members entitled to vote therefor. The directors must be members and shall not be entitled to compensation for their services but shall be entitled to reimbursement for expenses incurred by them in the performance of their duties. The board shall elect annually from its own number a president and a secretary.

Section 7. The board shall have power to do all things necessary or convenient in conducting the business of a corporation, including but not limited to: (a) The power to adopt and amend by-laws for the management and regulation of the affairs of the corporation. The by-laws by a corporation may make provisions, not inconsistent with law or its certificate of incorporation, regulating, the admission, withdrawal, suspension or expulsion of members; the transfer of memberships; the fees and dues of members and the termination of memberships on non payment of dues or otherwise; the number, times and manner of choosing, qualifications, terms of office, official designations, powers, duties and compensation of its officers; defining a vacancy in the board or in any office or the manner of filling it; the number of members, not less than a majority, to constitute a quorum, at meetings, the date of the annual meeting and the giving of notice thereof and the holding of special meetings and the giving of notice thereof; the terms and conditions upon which the corporation is to render service to its members, the disposition of the revenues and receipts of the corporation; regular and special meetings of the board and the giving of notice thereof. (b) To appoint agents and employees and to fix their compensation and the compensation of the officers of the corporation. (c) To execute instruments. (d) To delegate to one or more of the directors or to the agents and employees of a corporation such powers and duties as it may deem proper. (e) To make its own rules and regulations as to its procedure.

Section 8. A corporation may issue to its members certificates of

membership and each member shall be entitled to only one vote at the meeting of the corporation.

Section 9. The corporate purpose of each corporation formed hereunder shall be to render service to its members only and no person shall become or remain a member unless such person shall use energy supplied by such corporation and shall have complied with the terms and conditions in respect to membership contained in the by-laws of such corporation.

Section 10. Each corporation formed under this Act is hereby vested with all power necessary or requisite for the accomplishment of its corporate purpose and capable of being delegated by the Legislature of Alabama; and no enumeration of particular powers hereby granted shall be construed to impair any general grant of power herein contained, nor to limit any such grant to a power or powers of the same class or classes as those so enumerated.

Section 11. A corporation created under the provisions of this act shall have power to do any and all acts or things necessary or convenient for carrying out the purpose for which it was formed, including, but not limited to: (a) To sue and be sued. (b) To have a seal and alter the same at pleasure. (c) To acquire, hold and dispose of property, real and personal, tangible and intangible, or interests therein and to pay therefor in cash or on credit, and to secure and procure payment of all or any part of the purchase price thereof on such terms and conditions as the board shall determine. (d) To acquire, own, operate, maintain and improve a system or systems. (e) To pledge all or any part of its revenues or mortgage or otherwise encumber all or any part of its property for the purpose of securing the payment of the principal of and interest on any of its obligations. (f) To construct works across or along any street or public highway, or over any lands which are now or may be the property of this State or any political subdivision thereof without obtaining any franchise or other permit therefor. The corporation shall, however, restore any such street or highway to its former condition or state as near as may be and shall not use the same in a manner to impair unnecessarily its usefulness. (g) To accept gifts and/or grants of property, real or personal, from any person, municipality or federal agency and to accept voluntary and uncompensated services. (h) To make any and all contracts necessary and/or convenient for the full exercise of the powers in this Act granted, including, without limiting the generality of the foregoing, contracts with any person, federal agency, or municipality for the purchase or sale of energy; for the management and conduct of the business of the corporation, including the regulation of the rates, fees or charges for service rendered by the corporation. (i) To sell, lease, mortgage or otherwise encumber or dispose of all or any part of its property, as

hereinafter provided. (j) To contract debts, borrow money and to issue or assume the payment of obligations. (k) To levy and collect reasonable fees, rents, tolls and other charges for service rendered. (1) To perform any and all of the foregoing acts and to do any and all of the foregoing things under, through or by means of its own officers, agents and employees, or by contracts with any person, federal agency or municipality.

Section 12. No corporation may sell, mortgage, lease or otherwise encumber or dispose of any of its property (other than merchandise) unless authorized so to do (a) by the vote of at least a majority of its members and (b) the consent of the holders of seventy-five per centum (75%) in amount of the obligations of such corporation then outstanding is obtained.

Section 12½. No bonds or obligations of any corporation formed under this Act shall be issued and/or sold until consent to the issuance and sale thereof shall have been given by the Public Works Board of Alabama or in the event no such body is in existence at the time, by the Alabama Public Service Commission, to be evidenced by resolution or order under seal of such body granting such consent. Such consent shall be granted only after a public hearing and after a petition requesting such consent has been duly filed by such corporation with the secretary of such Public Works Board more than five days before such public hearing. Such petition shall specify the plan or program of the corporation and the uses to which it is proposed to put the proceeds of such issue and such other matters as are necessary fully to advise such Public Works Board of the nature of the corporate purpose in furtherance of which such issue is proposed and said petition shall include such other information as may be required by the rules of such Public Works Board. Such Public Works Board shall grant such consent only after it finds that such issue and/or sale serves some public need, and is in the public interest. It shall be unlawful for the corporation to use the proceeds of any such issue and/or sale contrary to the plan and purposes presented to such Public Works Board in obtaining its consent thereto. The corporation applying for such consent is authorized to pay such fees as shall be lawfully assessed against it by the body to which it applies for such consent.

Section 13. A corporation formed hereunder shall have power and is hereby authorized, from time to time, to issue its obligations in anticipation of its revenues for any corporate purpose. Said obligations may be authorized by resolution or resolutions of the board, and may bear such date or dates, mature at such time or times, not exceeding forty years from their respective dates, bear interest at such rate or rates not exceeding six per centum per annum, payable semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration

privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, not exceeding par and accrued interest, as such resolution or resolutions may provide. Such obligations may be sold in such manner and upon such terms as the board may determine at not less than par and accrued interest. Any provision of law to the contrary notwithstanding, any obligations and the interest coupons appertaining thereto, if any, issued pursuant to this Act shall possess all of the qualities of negotiable instruments.

Section 14. In connection with the issuance of any obligations, a corporation may make such covenants or agreements and do any and all such acts and things as may be necessary or convenient or desirable in order to secure its obligations or which, in the absolute discretion of the board tend to make the obligations more marketable, notwithstanding that such covenants, agreements, acts and things may constitute a limitation on the exercise of the powers herein granted.

Section 15. A corporation shall have power out of any funds available therefor to purchase any obligations issued by it at a price not exceeding the principal amount thereof and accrued interest thereon. All obligations so purchased shall be cancelled.

Section 16. Any two or more corporations created under the provisions of this Act may enter into an agreement for the consolidation of such corporations. Such agreements shall set forth the terms and conditions of the consolidation, the name of the proposed consolidated corporation, the number of its directors, not less than three, the time of the annual election and the names of the persons, not less than three, to be directors until the first annual meeting. If such agreement is approved by a majority of the members of each corporation, the directors named in the agreement shall subscribe and acknowledge a certificate conforming substantially to the original certificates of incorporation, except that it shall be entitled and endorsed "CERTIFICATE OF CONSOLIDATION OF \_\_\_\_\_" (the blank space being filled in with the names of the corporations being consolidated) and shall state: (1) The names of the corporations being consolidated. (2) The name of the consolidated corporation. (3) The other items required or permitted to be stated in an original certificate of incorporation. Such certificate of consolidation and a certified copy or copies thereof shall be filed in the same places as an original certificate of incorporation and thereupon the proposed consolidated corporation, under its designated name, shall be and constitute a body corporate with all of the powers of a corporation as originally formed hereunder.

Section 17. Any corporation, as originally formed hereunder, or a corporation resulting from the consolidation of two or more cor-

porations, may extend its territory by filing in the office of the officer charged with the duty of recording deeds of the county in which such new territory is located a certificate subscribed and acknowledged in the same manner as an original certificate of incorporation hereunder by the president or a vice-president and the secretary or an assistant secretary of the corporation, which shall set forth: (a) The name of the corporation. (b) A reasonable description of the new territory. (c) That the corporation is ready and able to extend forthwith its system into such new territory to the extent that it may economically do so. In the event that such new territory includes part of the territory of another corporation or corporations, then such certificate shall contain a statement to the effect that such other corporation or corporations have been requested in writing to construct the extensions which the corporation wishing to extend its territory is ready and able to construct and that such other corporation or corporations are not ready and able to do so. Unless such other corporation or corporations shall commence construction of such extensions within thirty days after being requested so to do, this shall be conclusive evidence as to the fact that such other corporation or corporations are not ready and able to construct such extensions. Construction of such extensions begun by such other corporation or corporations within said thirty-day period must be continued with reasonable diligence.

Section 18. A corporation formed hereunder shall have power to charge reasonable fees, rents, tolls, prices and other charges for service rendered which shall be sufficient at all times to pay all operating and maintenance expenses necessary or desirable for the prudent conduct and operation of its business and the principal of and interest on such obligations as the corporation may have issued or assumed in the performance of the purpose for which it was formed and the revenues and receipts of a corporation shall first be devoted to such operating and maintenance expenses and to the payment of such principal of and interest and thereafter to such reserves for improvement, new construction, depreciation and contingencies as the board may from time to time prescribe. Revenues and receipts not needed for these purposes shall be returned to the members on a pro-rata basis, either in cash or in abatement of current charges for energy, as the board may decide.

Section 19. Any corporation created hereunder may be dissolved by filing in the office of the Secretary of State a certificate which shall be entitled and endorsed "CERTIFICATE OF DISSOLUTION of \_\_\_\_\_" (the blank space being filled in with the name of the corporation) and shall state: (a) Name of the corporation and, if such corporation is a corporation resulting from a consolidation as herein provided, the names of the ori-

ginal corporation. (b) The date of filing of the certificate of incorporation in the office of Secretary of State and, if such corporation is a corporation resulting from a consolidation as herein provided, the dates on which the certificates of incorporation of the original corporations were filed in the office of Secretary of State. (c) That the corporation elects to dissolve. (d) The name and post office address of each of its directors, and the name, title and post office address of each of its officers. Such certificate shall be subscribed and acknowledged in the same manner as an original certificate of incorporation by the President or a Vice-President and the Secretary or an Assistant Secretary, who shall make and annex an affidavit stating that they have been authorized to execute and file such certificate by the votes cast in person or by proxy by a majority of the members of the corporation entitled to vote. A certificate of dissolution and a certified copy or copies thereof shall be filed in the same places as an original certificate of incorporation and thereupon the corporation shall be deemed to be dissolved. Such corporation shall continue for the purpose of paying, satisfying and discharging any existing liabilities or obligations and collecting or liquidating its assets, and doing all other acts required to adjust and wind up its business and affairs, and may sue and be sued in its corporate name. Any assets remaining after all liabilities or obligations of the corporation have been satisfied or discharged shall pass to and become the property of the State.

Section 20. A corporation created hereunder may amend its certificate of incorporation to change its corporate name, to increase or reduce the number of its directors or change any other provision therein, provided, however, that no corporation shall amend its certificate of incorporation to embody therein any purpose, power or provision which would not be authorized if its original certificate including such additional or changed purpose, power or provision were offered for filing at the time a certificate under this Section is offered. Such amendment may be accomplished by filing a certificate which shall be entitled and endorsed "CERTIFICATE OF AMENDMENT OF \_\_\_\_\_"

ELECTRIC MEMBERSHIP CORPORATION" and state: (1) The name of the corporation, and if it has been changed, the name under which it was originally incorporated. (2) The date of filing the certificate of incorporation in each public office where filed. (3) The purposes, powers or provisions, if any, to be amended or eliminated and the purposes, powers or provisions, if any to be added or substituted. Such certificate shall be subscribed in the same manner as an original certificate of incorporation hereunder by the president or a vice-president, by the secretary or the assistant secretary, who shall make and annex an affidavit stating that they have been authorized to execute and file such certificate by



the votes cast in person or by proxy by a majority of the members of the corporation entitled to vote. Such certificate shall be filed in the same places as an original certificate of incorporation and thereupon the amendment shall be deemed to have been effected.

Section 21. This Act is to be liberally construed and the enumeration of any object, purpose, power, manner, method or thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods or things.

Section 22. If any provision of this Act, or the application of such provision to any person, body, or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons, bodies, or circumstances, other than those as to which it is held invalid, shall not be affected thereby.

Section 23. This Act shall be effective immediately upon its passage and approval.

Approved February 7, 1935.

No. 46)

(H. 134—Todd

### AN ACT

To amend Section 1. of an act entitled "An Act to authorize any county, city or incorporated town of the State of Alabama, subject to the limitations herein stated, to purchase or construct a water works system, water supply system, sewer system, sanitary disposal equipment and appliances, or gas system, and in furtherance thereof to purchase or construct any necessary part of any such system either within or without the limits of such county, city, or incorporated town, as the case may be; and to authorize any county, city, or incorporated town of the State of Alabama, now or hereafter owning and operating any such system to improve, enlarge, extend or repair the same; and for any such purposes or purposes to authorize any such county, city, or incorporated town to issue revenue bonds payable solely from the revenues derived from the operation of any such system or systems; to regulate the issuance, sale, retirement, and refunding of such bonds and of other matters in connection therewith; to regulate the use of the revenues of such system or systems when such bonds are issued or outstanding; to provide for the operation of any such system or systems in case of deficiencies in such revenues; to confer upon the State Board of Health certain powers with reference to any such sewer system; and for other purposes," "Approved March 29, 1933", so as to include the power to furnish water to industrial consumers within or without the county, city, or incorporated town.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 1. of an Act entitled "An Act to authorize any county, city, or incorporated town of the State of Alabama, subject to the limitations herein stated, to purchase or construct a water works system, water supply system, sanitary disposal equipment and appliances, or gas system, and in furtherance thereof to purchase or construct any necessary part of any such system either within or without the limits of such county, city or

incorporated town as the case may be, and to authorize any county, city or incorporated town of the State of Alabama now or hereafter owning and operating any such system to improve, enlarge, extend or repair the same; and for any such purpose or purposes to authorize any such county, city or incorporated town to issue revenue bonds payable solely from the revenues derived from the operation of any such system or systems; to regulate the issuance, sale, retirement, and refunding of such bonds and of other matters in connection therewith; to regulate the use of the revenues of such system or systems when such bonds are issued or outstanding; to provide for the operation of any such system or systems in case of deficiencies of such revenues; to confer upon the State Board of Health certain powers with reference to any such sewer systems; and for other purposes." approved March 29, 1933, be and the same is hereby amended so as to read as follows: "Section 1. That any county, city or incorporated town of the State of Alabama, is authorized to purchase or construct a waterworks system for domestic and/or industrial use, water supply system for domestic and/or industrial use, sewer system, sanitary disposal equipment and appliances, or gas system, and in furtherance thereof to purchase or construct any necessary part of any such system either within or without the limits of such city or incorporated town, and any county, city, or incorporated town of the State of Alabama which may now or hereafter own and operate any such system is authorized to improve, enlarge, extend or repair the same and to furnish the services, commodities and facilities of such system to domestic or industrial users within or without the limits of such county or within or without the corporate limits of such city or incorporated town; provided that no city or incorporated town in this State shall have, under the authority conferred by this Act, the right to construct a gas system or domestic waterworks distribution system if there is, at the time of such proposed construction, a gas system or domestic waterworks distribution system or portion thereof then being operated as a public utility within the corporate limits thereof by any private or public utility corporation, individual, partnership or association, and provided that no County in this State shall have, under the authority conferred by this Act, the right to construct a gas system or domestic waterworks distribution system or portion thereof in that portion of said County where there may then be located any gas system or domestic waterworks distribution system or portion thereof then being operated as a public utility by any private or public utility corporation, individual, partnership or association. The term "industrial" when used herein to describe a water works or water system means a water works or water system designed to supply water primarily for use other than human consumption. The

term "domestic" when used herein to describe a water works or water works system means a water works or water system designed to supply water primarily for human consumption.

Section 2. This Act shall be effective immediately upon its passage and approval.

Approved February 7, 1935

No. 47)

(H. 135—Poole

## AN ACT

To authorize the creation of the Rural Electrification Authority of Alabama for the purpose of promoting and encouraging the fullest possible use of electric energy in the State by making electric energy available to certain inhabitants of the State at the lowest cost consistent with sound economy and prudent management; authorizing the Authority to sell and distribute electric energy and to construct or otherwise acquire a system or systems for the generation, transmission and distribution of electric energy to carry out the purposes of this Act; providing for the rights, powers and duties of the Authority; authorizing and regulating the issuance of bonds by the authority; and providing for the payment of such bonds and the rights of the holders thereof.

*Be it enacted by the Legislature of Alabama:*

Section 1. SHORT TITLE. This Act may be known and referred to as the "State Rural Electrification Authority Act".

Section 2. DEFINITIONS. The following terms, whenever used in this Act, shall have the following meanings, unless a different meaning clearly appears from the contents: (a) "authority" shall mean the corporation which may be created under this Act. (b) "board" shall mean the board of directors of the authority. (c) "bonds" shall mean and include negotiable bonds, interim certificates or receipts, notes, debentures and all other evidences of indebtedness either issued or the payment thereof assumed by the authority. (d) "acquire" shall mean and include construct, acquire by purchase, lease, devise, gift or the exercise of the right of eminent domain in the manner now or hereafter provided by law for the exercise thereof by the State. (e) "municipality" shall mean any county, city or town of this State. (f) "person" or "inhabitant" shall mean and include natural persons, firms, associations, corporations, business trusts, partnerships, and bodies politic. (g) "energy" shall mean and include any and all electric energy no matter how generated. (h) "system" shall mean and include any plant, works, system, facilities or properties, together with all parts thereof and appurtenances thereto, used or useful in connection with the generation, production, transmission or distribution of energy. (i) "law" shall mean any act or statute, general, special or local of this State. (j) "federal agency" shall mean and

include the United States of America, the President of the United States of America, the Federal Emergency Administrator of Public Works, and any and all other authorities, agencies, and instrumentalities of the United States of America, heretofore or hereafter created. (k) "improve" shall mean and include construct, reconstruct, improve, repair, extend, enlarge or alter. (1) "service" shall mean and include the transmission, sale or other disposition of energy at the lowest cost consistent with sound economy, public advantage and the prudent conduct of the business of the authority.

Section 3. ALABAMA RURAL ELECTRIFICATION AUTHORITY. An authority, to be known as the Alabama Rural Electrification Authority may be created hereunder as an agency of the State. Said authority shall be a public corporation in perpetuity under its corporate name, and shall under that name be a body politic and corporate, with power of perpetual succession.

Section 4. BOARD OF DIRECTORS OF AUTHORITY. The authority shall have a board of directors and the powers of the authority shall be vested in and exercised by a majority of the members of the board then in office.

Section 5. NUMBER, APPOINTMENT, REMOVAL AND TERMS OF DIRECTORS. The board shall consist of three members who shall be appointed by the Governor of the State and the first appointment of members of the board shall be made by the Governor within fifteen days after the passage of this Act. The term of office of the members of the board first appointed shall be one, two and three years, respectively, dating from the first day of the month in which the last of such appointments is made, and thereafter the term of office of the directors shall be three years. Directors shall hold office until their successors are appointed and qualify and shall be eligible for reappointment. An appointment to fill a vacancy shall be for the unexpired term. The Governor may remove any member of the board within the term for which he shall have been appointed, giving to such member a copy of the charges against him and an opportunity to be heard in his defense.

Section 6. ORGANIZATION OF BOARD; OFFICERS. Promptly after their appointment, the board shall meet to organize. At such meeting the members shall choose from their number a president and a secretary. The president and secretary shall be elected annually. The board may elect such other officers and appoint such agents and employees as it deems necessary and may delegate to one or more of its members, officers, agents or employees such powers and duties as it deems proper. The Board may thereafter file with the Secretary of State a certificate showing the names and terms of office of the members of the Board

and the names of the members of the Board who have been chosen President and Secretary respectively and attach thereto a copy of the by-laws of the Authority as approved by the Board and upon such certificate duly authenticated by the signatures of the three members of the Board being filed with the Secretary of State, the "State Rural Electrification Authority" shall be incorporated and vested with the powers, rights and franchises herein conferred.

Section 7. BY-LAWS. The board shall adopt by-laws prescribing the powers and duties of its officers, regulating the conduct of its meetings and affairs and the transaction of the business of the authority. By-laws may be amended at any meeting of the Board.

Section 8. COMPENSATION OF MEMBERS OF BOARD. The members of the board shall not be entitled to compensation for their services, but shall be entitled to reimbursement for all expenses incurred in connection with the performance of their duties.

Section 9. MEMBERS NOT TO HOLD OTHER STATE OFFICE. The members of the board shall not hold any other public office under the State.

Section 10. CORPORATE PURPOSE OF THE AUTHORITY. The corporate purpose of the authority is to encourage and promote the fullest possible use of energy by all the inhabitants of the State by rendering service to said inhabitants, to whom energy is not available or is not available at reasonable rates.

Section 11. GENERAL GRANT OF POWERS. The authority when incorporated shall be vested with all powers necessary or requisite for the accomplishment of its corporate purpose and capable of being delegated by the Legislature of the State of Alabama; and no enumeration of particular powers hereby granted shall be construed to impair any general grant of power herein contained, nor to limit any such grant to a power or powers of the same class or classes as those so enumerated.

Section: 12. GRANT OF SPECIFIC POWERS. Subject only to the constitution of the State of Alabama, the authority shall have power: (1) To sue and be sued. (2) To have a seal and alter the same at pleasure. (3) To render service to the inhabitants of the State and, by contract or contracts with any person, federal agency or municipality or by its own employees, to acquire, own, operate, maintain and improve a system or systems. (4) To acquire, hold and dispose of property, real and personal, tangible and intangible, or interests therein, in its own name, subject to mortgages or other liens or otherwise and to pay therefor in cash or on credit, and to secure and procure payment of all or

any part of the purchase price thereof on such terms and conditions as the board shall determine. (5) To cause surveys to be made of areas throughout the State for the purpose of determining the economic soundness of the acquisition of a system or systems therein; to make plans and estimates of cost of such system or systems and in connection therewith to enter on any lands, waters, and premises for the purpose of making such surveys, soundings and examinations. (6) To have complete control and supervision of the system or systems and to make such rules and regulations governing the rendering of service thereby as in the judgment of the board may be just and equitable. (7) To fix and collect rates and charges for service, subject to and in accordance with such agreements with bondholders as may be made, as hereinafter provided. (8) To construct any part or parts of a system or systems across or along any street or public highway, over any lands which are now or may hereafter be the property of the State or any political subdivision thereof without obtaining any franchise or other permit therefor. The authority shall, however, restore any such street or highway to its former condition or state as near as may be and shall not use the same in a manner to unnecessarily impair its usefulness. (9) To execute all instruments necessary or convenient. (10) To borrow money and issue bonds and to provide for the rights of the holders thereof. (11) To accept gifts or grants of money or property, real or personal, and voluntarily and uncompensated services from any person, federal agency or municipality. (12) To make any and all contracts necessary or convenient for the full exercise of the powers herein granted, including, but not limited to: (a) Contracts with any person, federal agency, or municipality for the purchase or sale of energy at wholesale. (b) Contracts with any person, federal agency or municipality for the management and conduct of the business of the authority or any part thereof. (c) Contracts with any person, federal agency, municipality or bondholders, notwithstanding such contract may operate as limits on the right of the authority to exercise any of the powers herein granted. (13) To do any and all acts and things herein authorized or necessary or convenient to carry out the powers expressly given in this Act under, through or by means of its own officers, agents and employees, or by contracts with any person, federal agency or municipality.

**Section 13. BONDS OF THE AUTHORITY.** The authority shall have power and is hereby authorized from time to time to issue bonds in anticipation of its revenues, for any corporate purposes. Said bonds may be authorized by resolution or resolutions of the board, and may be issued in one or more series, may bear date or dates, mature at such time or times not exceeding forty years from their respective dates, bear interest at such rate

or rates, not exceeding six per centum per annum, payable semi-annually, be in such denominations, be in such form, either coupon or registered, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, be declared or become due before the maturity date thereof, as such resolution or resolutions may provide. Said bonds may be issued for money or property (at public or private sale for such price or prices) as the board shall determine, provided, that the interest cost to maturity of the money or property (at its value as determined by the board, the determination of which shall be conclusive) received for any issue of said bonds, shall not exceed six per centum per annum, payable semi-annually. Said bonds may be repurchased by the authority out of any available funds at a price not to exceed the principal amount thereof and accrued interest, and all bonds so repurchased shall be cancelled. Pending the preparation or execution of definitive bonds, interim receipts or certificates or temporary bonds may be delivered to the purchaser or purchasers of said bonds.

Section 14. **VALIDITY OF BONDS.** Said bonds bearing the signature of officers in office on the date of the signing thereof shall be valid and binding obligations notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon shall have ceased to be officers. The validity of said bonds shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition or improvement of the system or systems for which said bonds are issued. The resolution or resolutions authorizing said bonds may provide that the bonds shall contain a recital that they are issued pursuant to this Act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

Section 15. **BONDS OF AUTHORITY NOT DEBTS OF STATE.** No holder or holders of any bonds issued under this Act shall ever have the right to compel any exercise of taxing power of the State or of any political sub-division thereof to pay said bonds or the interest thereon. Each bond issued under this Act shall recite in substance that said bond, including the interest thereon, is payable from the revenues pledged to the payment thereof, and that said bond does not constitute a debt of the State.

Section 16. **RATES.** The authority shall not be operated for gain or profit or primarily as a source of revenue to the State. The Authority shall, however, prescribe and collect reasonable rates, fees or charges for the services, facilities and commodities made available by it, and shall revise such rates, fees or charges from time to time whenever necessary so that the authority shall

be and always remain self-supporting, and shall not require appropriations by the State to enable it to carry out its purpose. The rates, fees or charges prescribed shall be such as will produce revenue at least sufficient (a) to pay when due all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor, and (b) to provide for all expenses of operation, maintenance or improvement of the system or systems acquired by the authority, including reserves therefor.

Section 17. AGREEMENT OF THE STATE. The State of Alabama does pledge to and agree with the holders of bonds issued by the authority that the State will not limit or alter the rights and powers hereby vested in the authority to fix and collect such rates, fees and charges as may be necessary or advisable in order to produce sufficient revenue to meet all expenses of maintenance and operation of its system or systems and to fulfill the terms of any agreement made with the holders of such bonds, or in any way impair the rights and remedies of the holders of such bonds, until such bonds together with interest thereon, and interest on any unpaid installments of interest, and all costs and expenses in connection with any suits, actions or proceedings by or on behalf such bondholders are fully paid and discharged.

Section 18. SECURITY FOR BONDS. In connection with the issuance of bonds or in order to secure the payment of its bonds, the authority incorporated under this Act shall have power: (1) To pledge all or any part of its revenues. (2) To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to its bonds, to provide for the powers and duties of such trustee or trustees, to limit the liabilities thereof, and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any amount or proportion of them may enforce any such covenant. (3) To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds or which, in the absolute discretion of the board, tend to make the bonds more marketable, notwithstanding that such covenants, acts and things may restrict or interfere with the carrying out of its corporate purposes, it being the intention hereof to give the authority power to do all things in the issuance of bonds, and for their security, that a private business corporation can do under the general laws of the State.

Section 19. No bonds or other evidence of indebtedness of the Authority incorporated under this Act shall be issued and/or sold until consent to the issuance and sale thereof shall have been given by the Public Works Board of Alabama or in the event no such



body is in existence at the time, by the Alabama Public Service Commission, to be evidenced by resolution or order under seal of such body granting such consent. Such consent shall be granted only after a public hearing and after a petition requesting such consent has been duly filed by the Authority with the secretary of such Public Works Board more than five days before such public hearing. Such petition shall specify the plan or program of the Authority and the uses to which it is proposed to put the proceeds of such issue and such other matters as are necessary fully to advise such Public Works Board of the nature of the corporate purpose in the furtherance of which such issue is proposed and said petition shall include such other information as may be required by the rules of such Public Works Board. Such Public Works Board shall grant such consent only after it finds that such issue and/or sale serves some public need, and is in the public interest. It shall be unlawful for the Authority to use the proceeds of any such issue and/or sale contrary to the plan and purposes presented to such Public Works Board in obtaining its consent thereto. The Authority applying for such consent is authorized to pay such fees as shall be lawfully assessed against it by the body to which it applies for such consent.

Section 20. **RIGHTS AND REMEDIES OF BONDHOLDERS.** In addition to all other rights and all other remedies, any holders of bonds of the authority, including a trustee for bondholders, shall have the right by mandamus or other suit, action or proceeding, at law or in equity, to enforce his rights against the authority and the board of the authority, including the right to require the authority and such board to fix and collect rates and charges adequate to carry out any agreement as to, or pledge of, the revenues produced by such rates or charges, and to require the authority and such board to carry out any other covenants and agreements with such bondholder and to perform its and their duties under this Act.

Section 21. **ASSETS TO PASS TO STATE.** In the event that the authority shall cease to exist, all of its assets remaining after all of its obligations and liabilities have been satisfied or discharged shall pass to and become the property of the State.

Section 22. **SEVERABILITY.** If any provision of this Act, or the application of such provision to any person, body, or circumstance shall be held invalid, the remainder of this act, or the application of such provision to persons, bodies, or circumstances, other than those as to which it is held invalid, shall not be affected thereby.

Approved February 7, 1935.

No. 48)

(H. J. R 27.—Sparks

## HOUSE JOINT RESOLUTION

WHEREAS, Fort Benning, at Columbus, Georgia, is one of the largest military and concentration camps in the United States, and is excellently located with reference to deep water outlet at Panama City, Florida; and,

WHEREAS, it is recognized that it would be to the advantage of Fort Benning to have a direct paved road to the gulf port, at Panama City, and that the most direct, feasible, easily constructed route is through Alabama whereby a distance of approximately fifty miles can be saved, Therefore:

BE IT RESOLVED BY THE HOUSE, THE SENATE CONCURRING, That the State Highway Department of Alabama, and the Bureau of Roads in Washington, are respectfully urged to give immediate consideration to the construction of such highway through Alabama; that the Highway Department of Alabama is respectfully requested to contact the highway authorities in Florida, seeking co-operation on the part of that state in construction of the portion of the road that may lie in Florida; that members of the House of Representatives and the United States Senators from Alabama, in Congress, are urgently requested to use their influence to bring to the attention of the proper authorities in Washington the desirability and effectiveness of a road from Fort Benning to Panama City, Florida, and urging them to secure the adoption of the Alabama route.

BE IT FURTHER RESOLVED that a copy of these resolutions be sent to the State Highway Department, Bureau of Roads in Washington, and to the members of the House of Representatives and the Senators of Alabama in the Congress of the United States.

Approved February 9, 1935.

No. 49)

(H. 30—Calhoun

## AN ACT

To Prohibit All Cities And Towns Within The State Of Alabama Which Now Have Or Which May Have A Population Of As Much As Sixteen Thousand And Less Than Eighteen Thousand People According To The Last Federal Census Or Any Such Census Which May Hereafter Be Taken. To Fix And Collect Licenses For Any Business, Trade or Profession Done Or Carried On Outside The Corporate Limits But Within The Police Jurisdiction Thereof.

*Be it enacted by the Legislature of Alabama:*

Section 1. That all cities or towns within the State of Alabama which now have or which may hereafter have a population of as much as sixteen thousand and less than eighteen thousand people

according to the last Federal census or any such census which may hereafter be taken, are hereby prohibited from collecting licenses for any business, trade or profession done or carried on within the police jurisdiction of such city or town and without the corporate limits thereof; provided; further, that this act shall not have the effect to repeal or modify the limitations provided by Sections 2157, 2158, 2159, 2160, 2161 and 2162 of the Code of Alabama of 1923, relating to railroads, express companies, sleeping car companies, telegraph companies, telephone companies and public utilities.

Section 2. All laws and parts of laws in conflict herewith are hereby repealed.

Section 3. This act shall go into effect immediately upon its hereby repealed.

passage and approval of the Governor.

Approved February 9, 1935.

No. 50)

## AN ACT

(H. 82—Harrison

To authorize and provide for the issuance of Refunding Bonds of the State of Alabama for the Purpose of Refunding Bonds issued or to be issued pursuant to Act No. 177 of the Legislature of Alabama passed at its Extraordinary Session of Nineteen Thirty Three and approved April 17, 1933, and validating said bonds issued pursuant to Act No. 177. To provide for a sinking fund and to make an appropriation from the State Treasury to meet the deficiencies in the sinking fund and for expenses in refunding said bonds.

*Be it enacted by the Legislature of Alabama:*

Section 1. There are hereby authorized to be issued refunding bonds of the State of Alabama to refund Warrant Refunding Bonds of the State of Alabama issued or to be issued pursuant to the authority contained in Act No. 177 of the Legislature of Alabama, passed at its extraordinary session of 1933 and approved April 17, 1933.

Section 2, Said refunding bonds and the interest thereon shall be exempt from all taxes of every kind.

Section 3. The Governor of the State of Alabama is hereby authorized to sell said refunding bonds from time to time, in such amounts and in such denominations as may be determined by him, but in no event shall the total amount of such refunding bonds issued hereunder be in excess of the amount necessary to be issued to refund the Warrant Refunding Bonds heretofore issued under the provisions of Act No. 177 of the Legislature of Alabama passed at the extraordinary session of 1933 and approved April 17, 1933, and remaining outstanding and unpaid upon the date when this Act takes effect.

Section 4. Said refunding bonds shall be in denominations of \$1000 or \$10,000; said refunding bonds shall be sold not to exceed  $4\frac{1}{2}$  per centum interest per annum, payable semi-annually, and said refunding bonds shall not be sold for less than par and shall mature in annual installments beginning not later than July 1, 1939 and ending not later than July 1, 1968, the total amount of principal and interest to mature in any one year to be in an amount to be fixed by the Governor; and the Governor may provide for the redemption of said bonds after five years from date of issue of said bonds and if such provision is contained in such bonds, then the said bonds may be called on any interest paying date at par and accrued interest, after thirty days notice of intention to redeem such bonds has been given by publication in newspapers of general circulation, published in Montgomery, Alabama, and in New York, New York, at least thirty days prior to the date so fixed for redemption, and if redeemable, said bonds shall recite on their face that they are so redeemable, and said bonds shall also recite on their face the manner in which notice of redemption shall be given.

Section 5. The Governor shall prescribe the form, the terms, manner of issuance and all other details with respect to said bonds, including the date or dates to be borne by said bonds, the interest payment dates, the medium of payment, and the place or places within or without the State of Alabama where the interest and principal of said bonds are to be paid, pursuant to the provisions of, and within the limitations of this Act, and may also provide that the bonds may be interchangeable as to denominations and may be registerable as to principal only, or as to both principal and interest, and the terms and conditions under which said bonds may be converted from fully registered bonds into coupon bonds, and again reconverted into fully registered bonds.

Section 6. The surplus of the State Income Tax, after provision has been made at any time for the payment of the next two maturing installments of interest and the next maturing installment of principal on said refunding bonds may be used to purchase, for and on behalf of the State of Alabama, any of said refunding bonds on the open market, if available at par, or may be used to call bonds in the inverse order of their maturities at par and accrued interest. if such bonds provide for a call; provided, however, that prior to the time when said refunding bonds may be redeemed, they may be purchased in the open market at the lowest price available.

Section 7. If any part or portion of the Warrant Refunding Bonds remains unfunded on July 1, 1937, the Governor of the State of Alabama then, or at any time thereafter, is authorized to sell refunding bonds of such maturity not exceeding five years and at such rate of interest not exceeding five per cent, as in his sole discretion he deems expedient to refund any of said Warrant Refunding Bonds then outstanding.

Section 8. Said refunding bonds shall be a direct and general obligation of the State of Alabama and the full faith and credit of the State are hereby pledged to the prompt payment of the principal and interest thereof as the same respectively becomes due. To create a sinking fund for the prompt and faithful payment of such bonds and the interest thereon, the net proceeds of any Income Tax which has been or which may be levied by the Legislature pursuant to law are hereby pledged, and there is hereby appropriated for the prompt payment of said bonds and interest thereon, out of the General Fund of the State, the amount necessary to pay the principal and interest in full as the same mature and become due, and said refunding bonds shall be entitled to the full benefit of the sinking fund provided by the Amendment to Section 213 of the Constitution of Alabama, designated as Article 23 thereof.

Section 9. Said refunding bonds shall be signed by the Governor, State Auditor and the State Treasurer and shall have attached thereto, attested by the Secretary of State, the Great Seal of the State of Alabama, coupons attached to said bonds, representing the semi-annual installments of interest thereon, shall be signed with the lithographed facsimile signature of the State Treasurer, which lithographed facsimile signature is hereby adopted as a due and sufficient authentication of said coupons. In the event that any of the officials who sign said bonds shall go out of office before said bonds or any of them are delivered and paid for, the said bonds, and the coupons attached thereto, shall nevertheless be valid for all purposes, as though all officials who signed the bonds had remained in office until all of said bonds had been delivered and paid for.

Section 10. The Governor is hereby authorized and empowered to employ such counsel as he may select for the purpose of ascertaining the regularity and legality of the refunding bonds to be issued pursuant to the provisions of this Act, and he is authorized to expend such amount of public monies as may be necessary to carry out the provisions of this Act.

Section 11. The Warrant Refunding Bonds referred to in Section 1, hereof, are hereby validated, ratified and confirmed in all respects, and are hereby declared to be the valid and legally binding obligations of the State of Alabama.

Section 12. If any part or provision of this Act is declared to be unconstitutional, it shall in no way effect the constitutionality of any of the remaining provisions of said Act, which shall continue to be in full force and effect.

Section 13. All laws or parts of laws inconsistent with or in conflict with any provision of this Act are hereby expressly repealed.

Section 14. This Act shall become effective immediately upon its passage and approval by the Governor.

Approved February 8, 1935.

No. 51)

(H. 94—Connor

## AN ACT

To repeal an Act entitled "An Act to create and establish the office of general guardian ad litem in all counties of over one hundred thousand population, according to the last preceding federal census or according to any subsequent federal census; to prescribe his duties and qualifications; to provide for his appointment and to fix his compensation and term of office; to provide for the appointment of a guardian ad litem in cases where the general guardian ad litem is disqualified or where the interests of the infants interested in a case are antagonistic or conflicting; and to provide a penalty for wrongfully appointing such guardian ad litem," approved March 22, 1911; as amended by an Act entitled "An Act to amend an Act entitled 'An Act to create and establish the office of general guardian ad litem in all counties of over one hundred thousand population, according to the last preceding Federal Census or according to any subsequent Federal Census; to prescribe his duties and qualifications, to provide for his appointment and to fix his compensation and term of office; to provide for the appointment of a guardian ad litem in cases where the general guardian ad litem is disqualified or where the interests of the infants interested in a case are antagonistic or conflicting; and to provide a penalty for wrongfully appointing such guardian ad litem,' approved March 22, 1911", approved July 27, 1915; as amended by an Act entitled "An Act to amend section (3) of an act entitled, 'An Act to create and establish the office of general guardian ad litem in all counties of sixty thousand (60,000) population and not exceeding eighty-two thousand (82,000) population according to the last Federal Census; to prescribe his duties and qualifications; to provide for his appointment and to fix his compensation and term of office; to provide for the appointment of a guardian ad litem in cases where the general guardian ad litem is disqualified or where the interest of the infants interested in the case, are antagonistic or conflicting; and to provide a penalty for wrongfully appointing such guardian ad litem', approved March 22, 1911, as amended by an act approved July 27th, 1915," approved August 18, 1919.

*Be it enacted by the Legislature of Alabama:*

Section 1. That an Act entitled "An act to create and establish the office of general guardian ad litem in all counties of over one hundred thousand population, according to the last preceding federal census or according to any subsequent federal census; to prescribe his duties and qualifications; to provide for his appointment and to fix his compensation and term of office; to provide for the appointment of a guardian ad litem in cases where the general guardian ad litem is disqualified or where the interests of the infants interested in a case are antagonistic or conflicting; and to provide a penalty for wrongfully appointing such guardian ad litem," approved March 22, 1911 (General Acts of 1911, page 128);

as amended by an Act entitled "An Act to amend an act entitled 'An act to create and establish the office of general guardian ad litem in all counties of over one hundred thousand population, according to the last preceding Federal census or according to any subsequent Federal census; to prescribe his duties and qualifications, to provide for his appointment and to fix his compensation and term of office; to provide for the appointment of a guardian ad litem in cases where the general guardian ad litem is disqualified or where the interests of the infants interested in a case are antagonistic or conflicting; and to provide a penalty for wrongfully appointing such guardian ad litem; approved March 22, 1911," approved July 27, 1915 (General Acts of 1915, page 260); as amended by an Act entitled "An Act to amend section (3) of an act entitled, 'An Act to create and establish the office of general guardian ad litem in all counties of sixty thousand (60,000) population and not exceeding eighty-two thousand (82,000) population according to the last Federal census; to prescribe his duties and qualifications; to provide for his appointment and to fix his compensation and term of office; to provide for the appointment of a guardian ad litem in cases where the general guardian ad litem is disqualified or where the interest of the infants interested in the case, are antagonistic or conflicting; and to provide a penalty for wrongfully appointing such guardian ad litem,' approved March 22, 1911, as amended by an act approved July 27th, 1915," approved August 18, 1919 (General Acts of 1919, page 204) be and the same hereby is repealed.

Section 2. If any court of competent jurisdiction shall hold that the aforementioned act approved March 22, 1911, as amended, was repealed by Section 11 of the Code of Alabama of 1923 or any other Section of said Code or Act of the Legislature of Alabama, it is now declared not to be the intent of the Legislature, by this act, to revise said act of March 22, 1911 or any part thereof, or amendment thereto nor to inferentially or otherwise recognize its existence as a law of Alabama at any time since being so formerly repealed. It is furthermore declared not to be the intention of the Legislature, by this act, either directly or indirectly to increase the amount of fees or charges which can now, by law, be assessed or allowed by any court of this state for the services of a guardian ad litem. The primary, paramount and guiding purpose of the Legislature by this Act is to abolish the office of general guardian ad litem as the same was created by the aforesaid Act of March 22, 1911, as amended, if the same has not heretofore been abolished by any other act or law of Alabama.

Approved February 9, 1935.

### AN ACT

To repeal an Act entitled "An Act to establish an Inferior Court of Record in all Counties in this State having a population of 300,000 or more according to the last or any subsequent Federal census and to define its jurisdiction and powers; to provide officers therefor and to fix their qualifications, powers, duties and compensation; to prescribe the practice and the procedure therein and the way, manner and method of appeals therefrom," approved July 20, 1931; to provide for the transfer of all causes or cases pending in any Inferior Court of Record established under the provisions of such act, and all documents, papers and records of such court, to the Circuit Court of the judicial circuit within the limits of which such Inferior Court of Record is located; and to provide for the enforcement of judgments obtained in any such Inferior Court of Records.

*Be it enacted by the Legislature of Alabama:*

Section 1. The Act of the Legislature of Alabama approved July 20, 1931, entitled "An Act to establish an Inferior Court of Record in all Counties in this State having a population of 300,000 or more according to the last or any subsequent Federal census and to define its jurisdiction and powers; to provide officers therefor and to fix their qualifications, powers, duties and compensation; to prescribe its practice and the procedure therein and the way, manner and method of appeals therefrom" (General Acts of 1931, page 621 et. seq.) be and the same hereby is repealed.

Section 2. All cases or causes pending on the effective date of this Act in any Inferior Court of Record established under the provisions of the aforesaid Act approved July 20, 1931, which is repealed by this Act, together with all documents, papers and records of such Court, shall be and hereby are transferred to the Circuit Court of the judicial circuit within the limits of which such Inferior Court of Record is located, in all respects and to the same extent as if such cases and causes had been begun in such Circuit Court. All judgments heretofore rendered by any such Inferior Court of Record shall have the same force and effect as if they had been rendered by the Circuit Court of the judicial circuit within the limits of which such Inferior Court of Record is located, and such Circuit Court shall have the same powers and control over such judgments and shall issue executions or other processes thereon in all respects and in the same manner as if such judgments had been originally rendered in such Circuit Court.

Section 3. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

Section 4. If any portion of this Act shall be held invalid by any court of competent jurisdiction for any reason, such holding shall not affect the validity of the remaining portions of this Act.



Section 5. This Act shall take effect upon its approval by the Governor.

Approved February 9, 1935.

No. 53)

(H. 98—Welch

### AN ACT

Authorizing trustees, executors, administrators, guardians and other fiduciaries to invest in mortgages which the Federal Housing Administrator has issued pursuant to Title Two of the National Housing Act.

*Be it enacted by the Legislature of Alabama:*

Section 1. That it shall be lawful for trustees, executors, administrators, guardians and other fiduciaries to invest their funds and the monies in their custody or possession eligible for investment in mortgages which have been accepted for insurance by the Federal Housing Administrator pursuant to title two of the National Housing Act.

Section 2. No law of this state requiring security upon which loans or investments may be made or prescribing the nature, amount or form of such security or prescribing or limiting the period for which loans or investments may be made shall be deemed to apply to loans or investments made pursuant to the foregoing paragraph.

Section 3. That this act shall take effect immediately upon the passage and approval by the Governor, the public welfare demanding it.

Section 4. That all laws and parts of laws in conflict herewith are hereby repealed.

Approved February 8, 1935.

No. 54)

(H. 140—Robertson

### AN ACT

To amend Section 3412 of Chapter 84 of the Code of Alabama of 1923.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 3412 of the Code of Alabama be and the same is hereby amended so as to read as follows: "Section 3412. LOAN OF FUNDS TO OFFICERS OF BANKS. Whoever, being president, cashier, teller, clerk, officer or employee of any incorporated bank or of any corporation, person, firm or association doing a banking business shall in any way obtain as a borrower, any of the funds of such incorporated bank, corporation, person, firm or association doing a banking business without having first

complied with the requirements of this section must on conviction be punished as if he had embezzled the amount borrowed. Before obtaining any such funds any such person must first execute his note or other evidence of debt therefor and in case the loan be made by an incorporated bank or corporation doing a banking business, must first obtain the consent thereto of a majority of the board of directors of such incorporated bank or corporation doing a banking business or of a majority of any committee of such bank, corporation or board of directors thereof duly empowered to authorize or pass upon loans, such consent to be evidenced by written approval on said note or other evidence of debt or by minutes of a meeting of such board or committee duly signed by the chairman or secretary thereof; and in case such loan shall be made by any other person, firm or association doing a banking business, first secure the consent thereto of such person or the manager or managers of such firm or association doing a banking business evidenced by written endorsement on such note or other evidence of debt. Renewals and extensions of loans must be evidenced and consented to in the same manner as in the case of the original loans, in determining whether or not the majority of any such board of directors or any such committee shall have consented to any loan herein dealt with no borrower and no surety or guarantor for a borrower shall be counted. As used herein neither of the terms "officer" nor "employee" shall include a director of any incorporated bank or corporation doing a banking business who is not an officer or employee thereof in another capacity."

Approved February 9, 1935.

No. 55)

(H. 148—Coleman

### AN ACT

To amend Section 213 of the Alabama School Code of 1927.

*Be it enacted by the Legislature of Alabama:*

Section 1. That section 213 of the Alabama School Code of 1927, be and the same is hereby amended so as to read as follows: Section 213. LOANS MAY BE SECURED TO PAY CURRENT EXPENSES.—If for any reason the current funds on hand are not sufficient to meet the current expenses of the City Board of Education, it may, on the recommendation of the City Superintendent of Schools borrow money to meet salaries of teachers and current expenses, provided that the amount so borrowed shall at no time exceed one-third of the sum used for current expenses during the preceding year, and the sum so borrowed shall be secured by a pledge of the current school revenues of the year; provided, that

the board of education of any city of five thousand or more population which has voted since October 1, 1932, an additional school tax over and above the district three-mill tax, such additional tax to be used for the payment of teachers' salaries, past, present, and future, shall have authority to issue for such purpose interest-bearing warrants against the proceeds of such additional tax for a period not to exceed the time for which such tax was levied.

Approved April 30, 1935.

No. 56)

(H. 131—Coleman

### AN ACT

To declare the necessity of creating public bodies corporate and politic to be known as housing authorities to engage in slum clearance and/or housing projects; to provide for the creation of such housing authorities; to define the powers and duties of such housing authorities and to provide for the exercise of such powers including the borrowing of money, issuance of bonds and other obligations and the giving of security therefor to provide for the payment of such bonds and other obligations with the approval and consent of a Board to be known as the Public Works Board of Alabama; and to provide for the remedies of bond and other obligation holders of such housing authorities.

*Be it enacted by the Legislature of Alabama:*

Section 1. SHORT TITLE. This Act may be referred to as the Housing Authorities Law.

Section 2. FINDING AND DECLARATION OF NECESSITY. It is hereby declared that unsanitary or unsafe dwelling and public school accommodations exist in various cities of the State and that such unsafe or unsanitary conditions arise from overcrowding and concentration of population, the obsolete and poor condition of the buildings, improper planning, excessive land coverage, lack of proper light, air and space, unsanitary design and arrangement, lack of proper facilities, and the existence of conditions which endanger life or property by fire and other causes; that in all such cities persons of low income are forced to reside in unsanitary or unsafe dwelling accommodations; that in various cities of the State there is a lack of safe or sanitary dwelling and public school accommodations available to all the inhabitants thereof and that consequently persons of low income are forced to occupy overcrowded and congested dwelling accommodations; that these conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the citizens of the State and impair economic values; that the aforesaid conditions also exist in certain areas surrounding such cities; that these conditions cannot be remedied by the ordinary operations or private enterprises; that the clear-

ance, replanning and reconstruction of the areas in which unsanitary or unsafe housing conditions exist and the providing of safe, sanitary and uncongested dwelling accommodations at such rentals that persons who now live in unsafe or unsanitary or congested dwelling accommodations can afford to live in safe, sanitary and uncongested dwelling accommodations, are public uses and purposes for which public money may be spent and private property acquired; that it is in the public interest that work on such projects be instituted as soon as possible in order to relieve unemployment which now constitutes an emergency; and the necessity in the public interest for the provision hereinafter enacted, is hereby declared as a matter of legislative determination.

Section 3. DEFINITIONS. The following terms, wherever used or referred to in this Act shall have the following respective meanings, unless a different meaning clearly appears from the context: (1) "Authority" or "housing authority" shall mean a public body organized as a body corporate and politic in accordance with the provisions of this Act for the purposes, with the powers and subject to the restrictions hereinafter set forth. (2) "City" shall mean any city or incorporated town in the State of Alabama. (3) "Council" shall mean the legislative body, council, board of commissioners, or other body charged with governing the city. (4) "City clerk" and "Mayor" shall mean the Clerk, and the Mayor or President of the Board of Commissioners, respectively, of the City or the officers thereof charged with the duties customarily imposed on the Clerk and Mayor respectively. (5) "Commissioner" shall mean one of the members of an authority appointed in accordance with the provisions of this Act. (6) "Government" shall include the State and Federal Governments and any subdivision, agency or instrumentality, corporate or otherwise of either of them. (7) "State" shall mean the State of Alabama. (8) "Federal Government" shall include the United States of America, the Federal Emergency Administrator of Public Works or any agency, instrumentality, corporate or otherwise, of the United States of America. (9) "Housing Project" shall include all real and personal property, buildings and improvements, stores, offices, public school buildings, lands for farming and gardening, and community facilities acquired or constructed or to be acquired or constructed pursuant to a single plan of undertaking (a) to demolish, clear, remove, alter or repair unsanitary or unsafe housing and/or (b) to provide dwelling accommodations at rentals within the means of persons of low income. The term "housing projects" may also be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith.

(10) "Community facilities" shall include real and personal property, and buildings and equipment for recreational or social assemblies, for educational, health or welfare purposes and necessary utilities, when designed primarily for the benefit and use of the occupants of the dwelling accommodations. (11) "Persons of low income" shall be persons receiving less than the incomes determined by the authority as the amount persons must receive to enable them to pay the rent necessary to secure, safe, sanitary and uncongested dwelling accommodations (other than dwelling accommodations provided by the authority or any cities) within the boundaries of the authority. Such determinations by the authority from time to time shall be binding and conclusive for all purposes hereunder. (12) "Bonds" shall mean any bonds, interim certificates, notes, debentures, warrants or other obligations of the authority issued pursuant to this Act. (13) "Mortgages" shall include deeds of trust, mortgages, building and loan contracts or other instruments conveying real or personal property as security for bonds and conferring a right to foreclose and cause a sale thereof. (14) "Trust Indenture" shall include instruments pledging the revenues of real or personal properties but not conveying such properties conferring a right to foreclose and cause a sale thereof. (15) "Contract" shall mean any agreement of an authority with or for the benefit of an obligee whether contained in a resolution, trust indenture, mortgage, lease, bond or other instrument. (16) "Real property" shall include lands, lands under water, structures, and any and all easements, franchises and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage or otherwise. (17) "Obligee of the authority" or "obligee" shall include any bondholder, trustee or trustees for any bondholders, any lessor demising property to the authority used in connection with a housing project or any assignee or assignees of such lessor's interest or any part thereof, and the United States of America, when it is a party to any contract with the authority.

Section 4. NOTICE, HEARING AND CREATION OF AUTHORITY. Any 25 residents of a city or of the area within ten miles from the territorial boundaries thereof may file a petition with the city clerk setting forth that there is a need for an authority to function in the city and said surrounding area. Upon the filing of such a petition the City Clerk shall give notice of the time, place and purposes of a public hearing at which the council will determine the need for an authority in the city and said surrounding area. Such notice shall be given at the city's expense by publishing a notice, at least ten days preceding the day on which the hearing is to be held, in a newspaper having a general circulation in the city and said surrounding area or, if there be no such news-

paper, by posting such a notice in at least three public places within the city, at least ten days preceding the day on which the hearing is to be held. Upon the date fixed for said hearing held upon notice as provided herein, an opportunity to be heard shall be granted to all residents and taxpayers of the city and said surrounding area and to all other interested persons. After such a hearing, the Council shall determine (1) Whether unsanitary or unsafe inhabited dwelling accommodations exist in the city and said surrounding area and/or (2) whether there is a lack of safe or sanitary dwelling accommodations in the city and said surrounding area available for all the inhabitants thereof. In determining whether dwelling accommodations are unsafe or unsanitary, the council shall take into consideration the following: The physical condition and age of the buildings; the degree of overcrowding; the percentage of land coverage; the light and air available to the inhabitants of such dwelling accommodations; the size and arrangement of the rooms; the sanitary facilities; and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes. If it shall determine that either or both of the above enumerated conditions exist, the council shall adopt a resolution so finding (which need not go into any detail other than the mere finding) and shall thereupon appoint, as hereinafter provided, five commissioners to act as an authority. Said commission shall be a public body and a body corporate and politic upon the completion of the taking of the following proceedings: The commissioners shall present to the Secretary of the State of Alabama, an application signed by them, which shall set forth (without any detail other than the mere recital) (1) that a notice has been given and public hearing has been held as aforesaid, that the council made the aforesaid determination after such hearing, and that the Mayor has appointed them as commissioners; (2) the name, and official residence of each of the commissioners, together with a certified copy of the appointment evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire the housing authority to become a public body and a body corporate and politic under this Act; (3) the term of office of each of the commissioners and the place where, if any, the official appointment of each of said members is kept of record; (4) the name which is proposed for the corporation; (5) the location of the principal office of the proposed corporation; (6) any other matter relating to the incorporation which the commissioners might choose to insert not inconsistent with the constitution and laws of the State of Alabama. The application shall be subscribed and sworn to by each of said commissioners before an officer authorized by the laws of the State of Alabama to take and certify oaths, who shall certify upon the ap-

plication that he personally knows the commissioners and knows them to be the officers as asserted in the application, and that each subscribed and sworn thereto in the officer's presence. The Secretary of State shall examine the application and if he finds that the name proposed for the corporation is not identical with that of a person or of any other corporation of this State or so nearly similar as to lead to confusion and uncertainty he shall receive and file it and shall record it in an appropriate book of record in his office. When the application has been made, filed and recorded, as herein provided, the Authority shall constitute a public body and a body corporate and politic under the name proposed in the application; the Secretary of State shall make and issue to the said commissioners, a certificate of incorporation pursuant to this Act, under the seal of the State, and shall record the same with the application. The boundaries of such authority shall include said city and the area within ten miles from the territorial boundaries of said city, but in no event shall it include the whole or a part of any other city having a population of more than ten thousand inhabitants nor any area included within the boundaries of another authority. In case an area lies within ten miles of the boundaries of more than one city having a population of more than ten thousand inhabitants, such area shall be deemed to be within the boundaries of the authority embracing such area which was first established, all priorities to be determined on the basis of the time of the issuance of the aforesaid certificates by the Secretary of State. If the council, after a hearing as aforesaid, shall determine that neither of the above enumerated conditions exist, it shall adopt a resolution denying the petition. After three months shall have expired from the date of the denial of any such petitions, subsequent petitions may be filed as aforesaid and new hearings and determinations made thereon. In any suit, action or proceeding involving the validity or enforcement of, or relating to any contract of the authority, the authority shall be conclusively deemed to have been established in accordance with the provisions of this Act upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be admissible in evidence in any such suit, action or proceeding, and shall be conclusive proof of the filing and contents thereof.

**SECTION 5. APPOINTMENT, QUALIFICATIONS AND TENURE OF COMMISSIONERS.** An authority shall consist of five commissioners appointed by the Mayor and he shall designate the first chairman. None of the commissioners may be city officials. The commissioners who are first appointed shall be designated by the Mayor to serve for terms of one, two, three, four and five years respectively from the date of their appoint-

ment. Thereafter, the term of office shall be five years. A commissioner shall hold office until his successor has been appointed and has qualified. Vacancies shall be filled for the unexpired term. Three commissioners shall constitute a quorum. The Mayor shall file with the City Clerk a certificate of the appointment or reappointment of any commissioner and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services but he shall be entitled to the necessary expenses including traveling expenses incurred in the discharge of his duties. When the office of the first chairman of the authority becomes vacant, the authority shall select a chairman from among its members. An Authority shall select from among its members a vice-chairman, and it may employ a secretary (who shall be executive director), technical experts, attorneys, and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensations. An authority may delegate to one or more of its agents or employees such power or duties as it may deem proper.

Section 6. DUTY OF THE AUTHORITY AND COMMISSIONERS OF THE AUTHORITY. The authority and its commissioners shall be under a statutory duty to comply or to cause compliance strictly with all provisions of this Act and the laws of the State of Alabama and in addition thereto, with each and every term, provision and covenant in any contract of the authority on its part to be kept or performed.

Section 7. INTERESTED COMMISSIONERS OR EMPLOYERS. No commissioner or employee of an authority shall acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project. If any commissioner or employee of an authority owns or controls an interest direct or indirect in any property included or planned to be included in any housing project, he shall immediately disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure to so disclose such interest shall constitute misconduct in office.

Section 8. REMOVAL OF COMMISSIONERS. The Mayor may remove a commissioner for inefficiency or neglect of duty or misconduct in office, but only after the commissioner shall have been given a copy of the charges against him (which may be made by the Mayor) at least ten days previous to the hearing thereon and had an opportunity to be heard in person or by counsel. Any obligee of the authority may file with the Mayor written charges



that the authority is violating wilfully any law of the State or any term, provision or covenant in any contract to which the authority is a party. The Mayor shall give each of the commissioners a copy of such charges at least ten days previous to the hearing thereon and an opportunity to be heard in person or by counsel and shall within thirty days after receipt of such charges remove any commissioners of the authority who shall have been found to have acquiesced in any such wilful violation. A commissioner shall be deemed to have acquiesced in a wilful violation by the authority of a law of this State or of any term, provisions, or covenant contained in a contract to which the authority is a part, if he shall not have filed a written statement with the authority of his objections to such violations prior to the aforesaid filing or making of such charges. In the event of the removal of any commissioner, the Mayor shall file in the office of the City Clerk a record of the proceedings together with the charges made against the commissioners and the findings thereon.

Section 9. **POWERS OF AUTHORITY.** An authority shall constitute a public body and a body corporate and politic exercising public powers, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including the following powers in addition to others herein granted; To investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where unsafe, or unsanitary dwelling, public school or housing conditions exist; to study and make recommendations concerning the plan of any city located within its boundaries in relation to the problem of clearing, replanning and reconstruction of areas in which unsafe, or unsanitary dwelling, public school, or housing conditions exist, and the providing of dwelling accommodations for persons of low income, and to cooperate with any city or regional planning agency; to prepare, carry out and operate housing projects; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof; to take over by purchase, lease or otherwise any housing project undertaken by any government or by any city located within its boundaries; to manage as agent of any city located within its boundaries any housing project constructed or owned by such city; to act as agent for the Federal Government in connection with the acquisition, construction, operation and/or management of a housing project or any part thereof; to arrange with any city located within its boundaries or with a government for the furnishing, planning, replanning, opening or closing of streets, roads, roadways, alleys or other places or facilities or for the acquisition by such city, or a government of property, options or property rights or for the furnishing of property or services in

connection with a project; to lease or rent any of the dwelling or other accommodations or any of the lands, buildings, structures or facilities embraced in any housing project and to establish and revise the rents or charges therefor; to enter upon any building or property in order to conduct investigations or to make surveys or soundings, to purchase, lease, obtain options upon, acquire by eminent domain, gift, grant, bequest, devise, or otherwise any property real or personal or any interest therein from any person, firm, corporation, city or government; to sell, exchange, transfer, assign, or pledge any property real or personal or any interest therein to any person, firm, corporation, city or government; to own, hold, clear and improve property; to insure or provide for the insurance of the property or operations of the authority against such risks as the authority may deem advisable; to procure insurance or guarantees from a Federal government of the payment of any debts or parts thereof secured by mortgages made or held by the authority on any property included in any housing project; to borrow money upon its bonds, notes, warrants, debentures or other evidences of indebtedness and to secure the same by pledges of its revenues, and (subject to the limitations hereinafter imposed) by mortgages upon property held or to be held by it, or in any other manner; in connection with any loan, to agree to limitations upon its right to dispose of any housing project or part thereof or to undertake additional housing projects; in connection with any loan by a government, to agree to limitations upon the exercise of any powers conferred upon the Authority by this Act; to invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to sue and be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; to make and from time to time amend and repeal by-laws, rules and regulations not inconsistent with this Act, to carry into effect the powers and purposes of the authority; to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to issue subpoenas requiring the attendance of witnesses or the production of books and papers and to issue commissions for the examination of witnesses who are out of the State or unable to attend before the authority, or excused from attendance; to make available to such agencies, boards or commissions as are charged with the duty of abating nuisances or demolishing unsafe or unsanitary structures within its territorial limits, its findings and recommendations with regard to any building or property where conditions exist

which are dangerous to the public health, morals, safety or welfare; and to do all things necessary or convenient to carry out the powers given in this Act. Any of the investigations or examinations provided for in this Act may be conducted by the authority or by a committee appointed by it, consisting of one or more commissioners, or by counsel, or by an officer or employee especially authorized by the authority to conduct it. Any Commissioner, counsel for the authority, or any person designated by it to conduct an investigation or examination shall have power to administer oaths, take affidavits and issue subpoenas or commissions. An authority may exercise any or all of the powers herein conferred upon it, either generally or with respect to any specific housing project or projects, through or by an agent or agents which it may designate, including any corporation or corporations which are or shall be formed under the laws of this State, and for such purposes an authority may cause one or more corporations to be formed under the laws of this State or may acquire the capital stock of any corporation or corporations. Any corporate agent, all of the stock of which shall be owned by the authority or its nominee or nominees, may to the extent permitted by law exercise any of the powers conferred upon the authority herein. In addition to all of the other powers herein conferred upon it, an authority may do all things necessary and convenient to carry out the power expressly given in this Act. No provisions with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to an authority unless the legislature shall specifically so state.

Section 10. No bonds or other evidence of indebtedness of an Authority or corporation created under the provisions of this Act shall be issued and/or sold until consent to the issuance and sale thereof shall have been given by such Public Works Board of Alabama to be evidenced by resolution or order under seal of such Board granting such consent. Such consent shall be granted only after a public hearing and after a petition requesting such consent has been duly filed by such Authority or corporation with the secretary of such Board more than five days before such public hearing. Such petition shall specify the plan or program of the Authority or corporation and the uses to which it is proposed to put the proceeds of such issue and such other matters as are necessary fully to advise such Board of the nature of the housing project and said petition shall include such other information as may be required by the rules of the board. The Board shall grant such consent only after it finds that such issue and/or sale serves some public need and is in the public interest. It shall be unlawful for such Authority or corporation to use the proceeds of any such is-

sue and/or sale contrary to the plan and purposes presented to the Board in obtaining its consent thereto.

**Section 11. COOPERATION BETWEEN AUTHORITIES.** Any two or more authorities may cooperate with one another in the exercise of any or all of the powers conferred hereby for the purpose of planning, constructing or operating a housing project of projects located partly within the boundaries of each of said authorities. Any housing authority may construct and operate a housing project within the boundaries of any other housing authority provided that (1) such other housing authority consents thereto, and (2) said housing project is located within ten miles of the city which is included in the boundaries of the housing authority desiring to construct and operate such project.

**Section 12. EMINENT DOMAIN.** The Authority shall have the right to acquire by eminent domain any property real or personal which it may deem necessary to carry out the purposes of this Act after the adoption by it of a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use. The authority may exercise the power of eminent domain pursuant to the provisions of Sections 7476 to 7533, both inclusive, Chapter 286, entitled Eminent Domain, Code of Alabama, 1923, and any amendments thereto; or pursuant to the provisions of any other applicable eminent domain laws of the State. Property already devoted to a public use may be acquired, provided that no property belonging to any city within the boundaries of the authority or to any government may be acquired without its consent and that no property belonging to a public utility corporation may be acquired without the approval of the commission or other officers or tribunal having regulatory power over such corporation.

**Section 13. ACQUISITION OF LAND FOR GOVERNMENT.** The authority may acquire by purchase or by the exercise of its power of eminent domain as aforesaid, any property real or personal which it may deem necessary for any housing project being constructed or operated by a government. The authority upon such terms and conditions, and for such consideration as it shall determine, may convey title or deliver possession of such property so acquired or purchased to such government for use in connection with such housing project.

**Section 14. ZONING AND BUILDING LAWS.** All housing projects of an authority shall be subject to the planning, zoning, sanitary and building laws, ordinances and regulations applicable to the locality in which the housing project is situated.

**Section 15. TYPES OF BONDS.** The authority shall have power and is hereby authorized from time to time in its discretion to issue for any of its corporate purposes: (a) Bonds on which the

principal and interest are payable (1) exclusively from the income and revenues of the housing project financed with the proceeds of such bonds or with such proceeds together with the proceeds of a grant from the Federal Government to aid in financing the construction thereof, or (2) exclusively from the income and revenues of certain designated housing projects whether or not they were financed in whole or in part with the proceeds of such bonds; provided, however, that the full faith and credit of the authority shall not be pledged to the payment of such bonds, but such bonds shall be payable only (and the bonds shall so state on their face) from the revenues of the designated housing project or projects and the funds received from the sale or disposal thereof and, if the authority so determines, shall be additionally secured by a trust indenture pledging such revenues or, in certain instances as hereinafter provided, by a mortgage of the property comprising such designated housing project or projects and the revenues therefrom. (b) Bonds for the payment of the principal and interest of which the full faith and credit of the authority is pledged and which may be additionally secured by a pledge of the revenue of the authority or any part thereof pursuant to a resolution or trust indenture of the authority or, in certain instances as hereinafter provided, may be additionally secured by a mortgage of the property and revenues of the authority or any part thereof. Neither the commissioners of the authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of the authority shall not be a debt of any city located within its boundaries or of the State and neither the State nor any such city shall be liable thereon, nor in any event shall they be payable out of any funds or properties other than those of the authority nor shall they constitute an indebtedness within the meaning of any constitutional or statutory provision of the laws of the State and every bond or other obligation of the authority shall so state plainly on the face thereof. Any resolution authorizing any bonds or obligations hereunder shall provide that such bonds or obligations shall contain a recital that they are issued pursuant to this Act, which recital shall be conclusive evidence of their validity and the regularity of their issuance. Bonds may be issued under this Act notwithstanding any debt or other limitation prescribed by any statute.

**Section 16. FORM AND SALE OF BONDS.** The bonds of the Authority shall be authorized by its resolution and shall be issued in one or more series and shall bear such date or dates, mature at such time or times, not exceeding forty years from their respective dates, bear interest at such rate or rates, not exceeding six per centum (6%) per annum payable semi-annually, be in such denominations (which may be made interchangeable) be in such

form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution or its trust indenture or mortgage may provide. The bonds may be sold at public sale held after notice published once at least ten days prior to such sale in a newspaper circulating in the city and in a financial newspaper published in the City of New York, New York, or in the City of New Orleans, Louisiana, provided, however, that such bonds may be sold to the Federal Government at private sale without any public advertisement. The bonds may be sold at such price or prices as the authority shall determine provided that the interest cost to maturity of the money received for any issue of said bonds shall not exceed six per centum (6%) per annum. Pending the authorization, preparation, execution or delivery of definitive bonds, the authority may issue interim certificates, or other temporary obligations to the purchaser of such bonds. Such interim certificates, or other temporary obligations, shall be in such form, contain such terms, conditions and provisions, bear such date or dates, and evidence such agreements relating to their discharge or payment or the delivery of definitive bonds as the authority may by resolution, trust indenture or mortgage determine. In case any of the officers whose signatures appear on any bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if they had remained in office until such delivery. The authority shall have power out of any funds available therefor to purchase any bonds issued by it at a price not more than the principal amount thereof and the accrued interest. All bonds so purchased shall be cancelled. This paragraph shall not apply to the redemption of bonds. Any provision of any law to the contrary notwithstanding, any bonds, interim certificates, or other obligations issued pursuant to this act are hereby declared to be negotiable instruments.

Section 17. PROVISIONS OF BONDS TRUST INDENTURE AND MORTGAGES. In connection with the issuance of bonds and/or the incurring of any obligation under a lease and in order to secure the payment of such bonds and/or obligations, the authority shall have power: (1) To pledge by resolution, trust indenture, mortgage (subject to the limitations hereinafter imposed), or other contract all or any part of its rents, fees, or revenues. (2) To covenant against mortgaging all or any part of its property, real or personal, then owned or thereafter acquired, or against permitting or suffering any lien thereon. (3) To covenant with respect to limitations on its right to sell, lease or otherwise

dispose of any housing project or any part thereof, or with respect to limitations on its right to undertake additional housing projects. (4) To covenant against pledging all or any part of its rents, fees and revenues to which its right then exists or the right to which may thereafter come into existence or against permitting or suffering any lien thereon. (5) To provide for the release of property, rents, fees and revenues from any pledge or mortgage, and to reserve rights and powers in, or the right to dispose of, property which is subject to a pledge or mortgage. (6) To covenant as to the bonds to be issued pursuant to any resolution, trust indenture, mortgage or other instrument and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof. (7) To covenant as to what other, or additional debt may be incurred by it. (8) To provide for the terms, form, registration, exchange, execution and authentication of bonds. (9) To provide for the replacement of lost, destroyed or mutilated bonds. (10) To covenant that the authority warrants the title to the premises. (11) To covenant as to the rents and fees to be charged, the amount (calculated as may be determined) to be raised each year or other period of time by rents, fees, and other revenues and as to the use and disposition to be made thereof. (12) To covenant as to the use of any or all of its property, real or personal. (13) To create or to authorize the creation of special funds in which there shall be segregated (a) the proceeds of any loan and/or grant; (b) all of the rents, fees and revenues of any housing project or projects or parts thereof; (c) any monies held for the payment of the costs of operation and maintenance of any such housing projects or as a reserve for the meeting of contingencies in the operation and maintenance thereof; (d) any monies held for the payment of the principal and interest on its bonds or the sums due under its leases and/or as a reserve for such payments; and (e) any monies held for any other reserves or contingencies; and to covenant as to the use and disposal of the monies held in such funds. (14) To redeem the bonds, and to covenant for their redemption, and to provide the terms and conditions thereof. (15) To covenant against extending the time for the payment of its bonds or interest thereon, directly or indirectly, by any means or in any manner. (16) To prescribe the procedure, if any, by which the terms of any contract with bond holders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given. (17) To covenant as to the maintenance of its property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys. (18) To vest in an obligee of the authority the right, in the event of the failure of the authority to observe or perform any covenant on its

part to be kept or performed, to cure any such default and to advance any moneys necessary for such purpose, and the moneys so advanced may be made an additional obligation of the authority with such interest, security and priority as may be provided in any trust indenture, mortgage, lease or contract of the authority with reference thereto. (19) To covenant and prescribe as to the events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived. (20) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation. (21) To covenant to surrender possession of all or any part of any housing project or projects upon the happening of an event of default (as defined in the contract) and to vest in an obligee the right without judicial proceedings to take possession and to use, operate, manage and control such housing projects or any part thereof, and to collect and receive all rents, fees and revenues arising therefrom in the same manner as the authority itself might do and to dispose of the monies collected in accordance with the agreement of the authority with such obligee. (22) To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to the bonds, to provide for the powers and duties of such trustee or trustees, to limit liabilities thereof and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any such covenant. (23) To make covenants other than in addition to the covenants herein expressly authorized, of like or different character. (24) To execute all instruments necessary or convenient in the exercises of the powers herein granted or in the performance of its covenants or duties, which may contain such covenants and provisions, in addition to those above specified as the government or any purchaser of the bonds of the authority may reasonably require. (25) To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the authority tend to make the bonds more marketable; notwithstanding that such covenants, acts or things may not be enumerated herein; it being the intention hereof to give the authority power to do all things in the issuance of bonds, in the provisions for their security that are not inconsistent with the constitution of the State of Alabama and no consent or approval of any judge or court shall be required thereof; provided, however, that the authority shall have no power to mortgage all or any part of its property, real or personal, except as provided in section 18 hereof.

#### Section 18. POWER TO MORTGAGE WHEN PROJECT



FINANCED WITH AID OF A GOVERNMENT. In connection with any project financed in whole or in part by a government, the authority shall also have power to mortgage all or any part of its property, real or personal, then owned or thereafter acquired, and thereby: (a) To vest in a government the right, upon the happening of an event of default (as defined in such mortgage), to foreclose such mortgage through judicial proceedings or through the exercise of a power of sale without judicial proceedings, so long as a Government shall be the holder of any of the bonds secured by such mortgage. (b) To vest in a trustee or trustees the right, upon the happening of an event of default (as defined in such mortgage), to foreclose such mortgage through judicial proceedings or through the exercise of a power of sale without judicial proceedings, but only with the consent of the government which aided in financing the housing project involved. (c) To vest in other obligees the right to foreclose such mortgage by judicial proceedings, but only with the consent of the government which aided in financing the project involved. (d) To vest in an obligee, including a government, the right in foreclosing any mortgage as aforesaid, to foreclose such mortgage as to all or such part or parts of the property covered thereby as such obligee (in its absolute discretion) shall elect; the institution, prosecution and conclusion of any such foreclosure proceedings and/or the sale of any such parts of the mortgaged property shall not affect in any manner or to any extent the lien of the mortgage on the parts of the mortgaged property not included in such proceedings or not sold as aforesaid.

Section 19. REMEDIES OF AN OBLIGEE OF AUTHORITY. An obligee of the authority shall have the right in addition to all other rights which may be conferred on such obligee subject only to any contractual restrictions binding upon such obligee: (a) By mandamus, suit, action or proceeding in law or equity (all of which may be joined in one action) to compel the authority, and the commissioners, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any contract of the authority, and to require the carrying out of any or all covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by this Act. (b) By suit, action or proceeding in equity to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of the authority. (c) By suit, action or proceeding in any court of competent jurisdiction to cause possession of any housing project or any part thereof to be surrendered to any obligee having the right to such possession pursuant to any contract of the authority.

**Section 20. ADDITIONAL REMEDIES CONFERABLE BY MORTGAGE OR TRUST INDENTURE.** Any authority shall have power by its trust indenture, mortgage, lease or other contract to confer upon any obligee holding or representing a specified amount in bonds, lease or other obligations, the right upon the happening of an "event of default" as defined in such instrument: (a) By suit, action or proceeding in any court of competent jurisdiction to obtain the appointment of a receiver of any housing project of the authority or any part or parts thereof. If such receiver be appointed, he may enter and take possession of such housing project or any part or parts thereof and operate and maintain same, and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom in the same manner as the authority itself might do and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of the authority as the court shall direct. (b) By suit, action or proceeding in any court of competent jurisdiction to require the authority and the commissioners thereof to account as if it and they were the trustees of an express trust.

**Section 21. REMEDIES CUMULATIVE.** All the rights and remedies hereinabove conferred shall be cumulative and in addition to all other rights and remedies that may be conferred upon such obligee of the authority by law or by any contract with the authority.

**Section 22. LIMITATIONS ON REMEDIES OF OBLIGEE.** No interest of the authority in any property, real or personal, shall be subject to sale by the foreclosure of a mortgage thereon, either through judicial proceedings or the exercise of a power of sale contained in such mortgage, except in the case of the mortgages provided for in Section 18 hereof. All property of the authority shall be exempt from levy and sale by virtue of an execution, or other process to the same extent as now enjoyed by the properties of towns, cities and counties of Alabama. No judgment against the authority shall be a charge or lien upon its property, real or personal. The provisions of this section shall not apply to or limit the right of obligees to foreclose any mortgage of the authority provided for in Section 18 hereof and, in case of a foreclosure sale thereunder, to obtain a judgment or decree for any deficiency due on the indebtedness secured thereby and issued on the full faith and credit of the authority. Such deficiency judgment or decree shall be a lien and charge upon the property of the authority which may be levied on and sold by virtue of an execution or other judicial process for the purpose of satisfying such deficiency judgment or decree.

**Section 23. FORECLOSURE SALE SUBJECT TO AGREEMENT WITH GOVERNMENT.** Notwithstanding anything in

this Act to the contrary, any purchaser or purchasers at a sale of real or personal property of the authority whether pursuant to any foreclosure of a mortgage, pursuant to judicial process or otherwise, shall obtain title subject to any contract between the authority and a government relating to the supervision by a government of the operation and maintenance of such property and the construction of improvements thereon.

**Section 24. CONTRACTS WITH FEDERAL GOVERNMENT.** In addition to the powers conferred upon the authority by other provisions of this Act, the authority is empowered to borrow money and/or accept grants from the Federal Government for or in aid of the construction of any housing project which such authority is authorized by this Act to undertake, to take over any land acquired by the Federal Government for the construction of a housing project, to take over or lease or manage any housing project constructed or owned by the Federal Government, and to this end, to enter into such contracts, mortgages, trust indentures, leases or other agreements as the Federal Government may require including agreements that the Federal Government shall have the right to supervise and approve the construction, maintenance and operation of such housing project. It is the purpose and intent of this Act to authorize every authority to do any and all things necessary to secure the financial aid and the cooperation of the Federal Government in the construction, maintenance and operation of any housing project which the authority is empowered by this Act to undertake.

**Section 25. SECURITY FOR FUNDS DEPOSITED BY AUTHORITIES.** The authority may by resolution provide that (1) all moneys deposited by it shall be secured by obligations of the United States or of the State of Alabama of a market value equal at all times to the amount of such deposits or (2) by any securities in which savings banks may legally invest funds within their control or (3) by an undertaking with such sureties as shall be approved by the authority faithfully to keep and pay over upon the order of the authority any such deposits and agreed interest thereon, and all banks and trust companies are authorized to give any such security for such deposits.

**Section 26. CONVEYANCES AND CONTRACT OF CITY OR GOVERNMENT.** Any city located within the boundries of an authority, or a government, may, upon such terms and for such consideration as it may determine (a) sell, convey or lease any of its property and (b) to the extent that it is within the scope of each of their respective functions, may cause the services customarily provided by each of them to be rendered for the benefit of the occupants of such housing projects and may provide and maintain parks and sewage, water and other facilities adjacent to

or in connection with such housing projects, and may enter into an agreement with an authority to open, close, pave, install or change the grade of streets, roads, roadways, alleys, sidewalks, to change the city map, to plan, replan, zone or rezone any part of the city. In connection with this power, any such city is empowered to incur the entire expense of public street improvements (subject to such reimbursement by the authority as the City shall determine) without assessment against abutting property owners. Any statute, to the contrary notwithstanding, any sale, conveyance or lease may be made by any such city or government to an authority without an appraisal, public notice, advertisement or public bidding, for such price and in the case of a lease for such rental or term as may be deemed advisable.

Section 27. **REPORTS.** The authority shall at least once a year file with the Mayor of the City a report of its activities for the preceding year, and shall make any recommendations with reference to any additional legislation or other action that may be necessary in order to carry out the purposes of this Act.

Section 28. **SEVERABILITY.** That if any one or more sections, clauses, sentences, or parts of this Act shall for any reason be questioned in any court, and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof but shall be confined in its operation to the specific provisions so held unconstitutional or invalid, and the inapplicability or invalidity of any section, clause or provision of this Act in any one or more instances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

Section 29. **REPEAL OF INCONSISTENT PROVISIONS.** That in so far as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling.

Section 30. **EMERGENCY CLAUSE.** This Act shall be effective immediately upon its passage and approval.

Approved February 8, 1935.

No. 57)

(S. 12—Mooneyham

## AN ACT

To amend Sections 1, 2 and 3, of an act entitled "An Act to provide for the consolidation of the administration and control of the public school system in any county of not less than seventy-five thousand nor more than one hundred thousand population, according to the last or any succeeding Federal census; to establish a Board of Education, in lieu of all other city and county Boards of Education in such counties, and provide for

the manner of its selection and to define its authority." (Approved September 6, 1927).

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 1 of an act entitled "An Act to provide for the consolidation of the administration and control of the public school system in any county of not less than seventy-five thousand nor more than one hundred thousand population according to the last or any succeeding Federal Census; to establish a Board of Education in lieu of all other city and County Boards of Education in such counties, and provide for the manner of its selection and to define its authority," (Approved September 6, 1927.) be and the same is hereby amended so as to read as follows: Section 1. In all counties having a population of not less than 75,000 nor more than 100,000 according to the last or any succeeding federal census, the administration and control of the public schools and the public school interests therein and thereof shall be under the exclusive direction and management of a Board of Education consisting of seven members, which board shall be in lieu of any and all existing city boards of education and county boards of education and consolidated boards of education within such counties, which such existing city, county and consolidated boards of education shall be abolished from and after the election and qualification of the members of the Board of Education hereby created. The board hereby created shall select from its membership a Chairman, who shall be entitled to vote as any other member of the Board. All of the members of such Board of Education shall be elected by the qualified voters of the County as hereinafter provided.

Section 2. That Section 2 of said act be and the same is hereby amended so as to read as follows: Section 2. In all such counties in which there is situated a municipality which has a population of not less than 40,000 such Board of Education shall be elected as follows: The seven members thereof shall be elected by the qualified voters of the county provided however that two of the members thereof must reside outside of the corporate limits of any such municipality, provided further however that those members of the board which have heretofore been elected under provisions of this act by the voters of the county shall continue in office until the expiration of the term for which they have been duly elected.

Section 3. That section 3 of said act be and the same hereby amended so as to read as follows: Section 3. Upon a county coming within the influence of this act the members hereinabove provided for to be elected by the voters of the county shall be chosen at the election which is hereby called on the second Tuesday in June, 1935, said election to be held under all the terms of the general election laws of this State. No political party shall nominate candidates to be voted on at such special election, but any eligible

elector of said county may become a candidate by filing with the Judge of Probate of such County, at not more than forty and not less than thirty days before the holding of such special election, a written declaration of his candidacy. The members to be elected at the special election hereinabove provided for shall hold office until December 1st next after the general state election in 1940; that at the general state election in 1940 the members of such Board of Education shall be designated by numbers one to seven inclusive. The members numbered six and seven must reside outside of the corporate limits of such municipality. Members one, two, three, four and five may reside anywhere within said county. The terms of office of the members of such Board of Education elected at the general state election in 1940 shall be as follows: The term of members one and seven shall expire on the first day of December, the second year after such general state election; the terms of members numbered two and three shall expire on the first day of December, the fourth year after such general state election; the terms of members four, five and six, shall expire on the first day of December, the sixth year after such general state election. Their respective successors shall be elected for a term of six years at the general election next preceding the expiration of their respective terms of office. In the event of any vacancy by reason of resignation, death, or otherwise, such vacancy is to be filled for the unexpired term of such member by appointment of the Governor.

Section 4. That all laws and parts of laws in conflict with this act be and the same are hereby repealed.

Section 5. This act shall take effect immediately upon its passage and approval by the Governor.

Approved February 9, 1935.

No. 58)

(H. 6—Segrest

### AN ACT

For the relief of B. K. Palmer, and to appropriate for the use of said B. K. Palmer, the sum of \$125.00 for the loss of a mule killed by a convict truck on April 21, 1933, at or near Hartford, Alabama.

*Be it enacted by the Legislature of Alabama:*

Section 1. That out of any funds in the State Treasury not otherwise appropriated, that it hereby appropriate the sum of \$125.00 for the relief of B. K. Palmer, on account of the loss of one mule, which was killed by convict truck belonging to the State of Alabama, at or near Hartford, Alabama, on April 21st, 1933.

Section 2. That immediately after the passage of this Act and its approval by the Governor, the State Auditor shall issue his warrant upon the State Treasurer in favor of B. K. Palmer in the sum of \$125.00.

Section 3. All laws and parts of laws local, special or general in conflict with the provisions of this Act are hereby repealed.  
Approved February 9, 1935.

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No. 59)

(H. 44—Taylor

## AN ACT

To repeal Chapter 165 of the Code of Alabama of 1923.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Chapter 165 of the Code of Alabama of 1923 be and the same is hereby repealed.  
Approved February 8, 1935.

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No. 60)

(H. 45—Taylor

## AN ACT

To repeal Chapter 35 of the Code of Alabama of 1923.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Chapter 35 of the Code of Alabama of 1923 be and the same is hereby repealed.  
Approved February 8, 1935.

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No. 61)

(H. 120—Welch

## AN ACT

To abolish the office of State Prison Inspector and to authorize the Governor to provide for the discharge of the duties of said office by some other existing agencies of the State designated by him.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the office of State Prison Inspector is hereby abolished.

Section 2. That the Governor is authorized to provide for the discharge of the duties of said office so abolished by this Act by some other existing agency of the State designated by the Governor for that purpose.

Section 3. If any section, clause or provision of this Act is held to be unconstitutional such holding shall not in any manner effect any other Section, Clause or provision hereof.

Section 4. That all laws and parts of laws in conflict herewith are hereby repealed.

Section 5. That this Act shall take effect immediately after its approval by the Governor.

Approved February 9, 1935.

No. 62)

(H. 150—Owen (Etowah))

## AN ACT

To Provide That The Inhabitants Of All Cities In The State Of Alabama, Which Now Have A Population Of 24,000.00 And Less Than 40,000.00 People, According To The Last Federal Census, Or Which Hereafter May Have Such A Population According To Any Such Census That May Hereafter Be Taken, Shall Be Exempt From Working On The Roads Or Highways Outside The Corporate Limits Of Such Cities, And Shall Not Be Required To Pay Any Street Tax For The Support Of The Streets Within The Corporate Limits Of Such Cities.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the inhabitants of all cities in the State of Alabama, which now have a population of 24,000.00 and less than 40,000.00 people, according to the last federal census, or which hereafter may have such a population according to any such census that may hereafter be taken, shall be exempt from working on the roads or highways outside the corporate limits of such cities, and shall not be required to pay any street tax for the support of the streets within the corporate limits of such cities.

Section 2. That all laws and parts of laws, general, special or local, in conflict with this Act are hereby expressly repealed.

Section 3. That this Act shall go into effect upon its passage and approval by the Governor.

Approved February 9, 1935.

No. 63)

(H. 138—Harrison)

## AN ACT

To create four joint Recess Committees of the House and Senate to serve during the recess of the Legislature, to be taken during the present session, to be known as the Recess Committees on Finance and Taxation, Judicial Reform, Education, Highways and Agriculture, and Ad Valorem Taxes and Homestead Tax Exemptions; to provide the number of members to serve on said committees from the House of Representatives and the Senate, and their compensation and expenses; to provide for Clerks and other employees of said Recess Committees and for their compensation; to provide generally the duties of said Recess Committees; to make an appropriation to cover the necessary expenses and compensation of said committees.

*Be it enacted by the Legislature of Alabama:*

Section 1. A Recess Committee on Finance and Taxation, a Recess Committee on Judicial Reform, a Recess Committee on Education, Highways and Agriculture, and a Recess Committee on Ad Valorem Taxes and Homestead Tax Exemptions, to serve during the recess of the Legislature to be taken during the present session is hereby created. The Committee on Finance and Taxation shall consist of six members from the House of Representatives



and four members from the Senate, and the Committee on Judicial Reform shall consist of six members from the House of Representatives and four members from the Senate, and the Committee on Education, Highways and Agriculture shall consist of six members from the House of Representatives and four members from the Senate, and the Committee on Ad Valorem Taxes and Homestead Tax Exemptions shall consist of two members from the House of Representatives and one member from the Senate. The members of such committees from the House of Representatives shall be named by the Speaker of the House, and the members of such committees from the Senate shall be named by the Lieutenant-Governor. The Speaker of the House and the Lieutenant-Governor and the President Pro-Tem of the Senate shall be ex-officio members of all said committees, but shall draw compensation and expenses for attendance on only one of said committees. The members of said committees shall give all the time necessary to carry out the duties of the committees herein provided for.

Section 2. The Committee on Finance and Taxation is authorized and it shall be its duty to make a careful and proper study of the finances of the State and of the appropriations which shall be made for all state purposes, and it shall report its findings and recommendations to the Legislature when it re-convenes. The Committee on Judicial Reform is authorized and it shall be its duty to make a careful and proper study of the judicial system, laws and rules of courts of the State, and it shall report its findings and recommendations to the Legislature when it re-convenes. The Committee on Education, Highways and Agriculture is authorized and it shall be its duty to make a careful and proper study of the educational laws and needs of Alabama, the highway laws and needs of Alabama, and the agricultural laws and needs of Alabama, and it shall report its findings and recommendations to the Legislature when it re-convenes. The Committee on Ad Valorem Taxes and Homestead Tax Exemptions is authorized and it shall be its duty to investigate and make a careful study of the system of assessment and collection of ad valorem taxes, the redemption and sale of property heretofore sold for taxes, and the replacing of the same on tax rolls; the extent and effect of homestead exemption from ad valorem taxation upon the revenues of State, Counties and Municipalities, and it shall report its findings and recommendations to the Legislature when it re-convenes.

Section 3. Said Committees are hereby authorized to employ such assistants and clerks as they may deem necessary and to fix their compensation.

Section 4. The members of said Committees shall be paid their necessary expenses and shall be paid \$4.00 per day for the time they are engaged as members of the said committees.

Section 5. An appropriation of \$25,000.00 or so much thereof as may be necessary is hereby made from the General Fund of the State for the purpose of paying the salaries, and other expenses incident to the work of the said committees, and certificates of the Chairman of each of the respective committees shall be sufficient authority to the State Comptroller for the issuance of warrants for the payment of such salaries and expenses.

Section 6. This Act shall take effect immediately upon its passage and approval by the Governor.

Approved February 8, 1935.

No. 64)

(H. 14—Harrison

### AN ACT

To authorize and empower the State Tax Commission to exempt from ad valorem taxes for state purposes factories or plants, and extensions thereof or additions thereto, including the works, machinery and all other equipment used in connection therewith, constructed, extended or operated for the purpose of manufacturing pulp, paper, paper bags and other pulp products, such exemption, and the remission of any and all such taxes which are or may be assessed on such factories or plants and extensions thereof or additions thereto, to be for a period of not exceeding ten years from the date of completion of each such factory or plant, or extension or addition thereto, but not to apply to the lands on which the same are located, and provided further that said exemption and remittance shall not apply to property which at the time of the passage of this Act constitutes any factory, mill or plant already erected or constructed within the State at the time of the passage of this Act; provided, however, that if after the passage of this Act any existing factory, mill, or plant, or the owner thereof shall erect or construct any addition, extension, or betterment, whensoever begun or shall complete the construction of any addition, extension, or betterment, whensoever begun, or shall erect or construct another or additional unit, or units, or shall complete the construction of any unit, or units, whensoever begun, to such existing factory or plant, involving an expenditure of an amount not less than \$50,000.00, within any twelve months period, in constructing and equipping such extension, betterment, unit or addition within the State of Alabama, including the works, machinery and all other equipment constituting a part of or used in connection with such extension, unit, betterment, or addition, the exemption and remittance provided for in this Act shall apply to so much of said extension, addition or betterment, and additional units erected, constructed or completed, after the passage of this Act, including the works, machinery and other equipment constituting a part of, or used in connection with, the same.

*Be it enacted by the Legislature of Alabama:*

Section 1. That for the purpose of developing a market for Alabama pine and other trees and the products thereof and of encouraging the construction, extension and operation of factories and plants for the manufacture or production of pulp, paper, paper bags and other pulp products in the State of Alabama, the State Tax Commission, or other commission or board of the state having

like jurisdiction, is hereby authorized and empowered to exempt from all ad valorem taxes for state purposes, and to remit any and all such taxes which are or may be assessed thereon, each such factory and plant, and extensions thereof or additions thereto, including the works, machinery, and all other equipment constituting a part of or used in connection with any such factory or plant, or extension thereof or addition thereto, for a period of not exceeding ten years from the date of completion of such factory or plant, or extensions thereof or additions thereto; provided, however, that said exemption and remittance shall not apply to the taxation for state purposes of the lands upon which any such factories or plants, and extensions thereof or additions thereto, are located, and provided further that said exemption and remittance shall not apply to property which at the time of the passage of this Act constitutes any factory, mill or plant already erected or constructed within the State at the time of the passage of this Act; Provided, however, that if after the passage of this Act any existing factory, mill, or plant, or the owner thereof shall erect or construct any addition, extension or betterment, or shall complete the construction of any addition, extension, or betterment whensoever begun, or shall erect or construct another or additional unit, or units, whensoever begun, to such existing factory or plant, involving an expenditure of an amount not less than \$50,000.00, within any twelve months period, in constructing and equipping such extension, betterment, unit or addition within the State of Alabama, including the works, machinery and all other equipment constituting a part of or used in connection with such extension, unit, betterment, or addition, the exemption and remittance provided for in this Act shall apply to so much of said extension, addition or betterment, and additional units erected, constructed or completed, after the passage of this Act, including the works, machinery and other equipment constituting a part of, or used in connection with, the same."

Section 2. In order to obtain the benefits of the exemption and remittance provided for in Section 1 hereof, the person, firm or corporation owning or controlling or proposing to own or control any such factory or plant must make application in writing to the State Tax Commission, or other commission or board of the state having like jurisdiction, stating, in the case of a corporation, the date and place of incorporation or organization and the location of the principal place of business in the state of the applicant; in the case of a person, the name and address of the applicant; and, in the case of a partnership, the names and addresses of the partners composing the applicant. In all cases the application shall also state the location and a general description of the factory or plant, or extension thereof or addition thereto, or the proposed factory or plant, or the proposed extension thereof or addition thereto, as the

case may be, and pray for an order to be made by the State Tax Commission, or other commission or board of the state having like jurisdiction, granting such applicant, his, its or their successors and assigns, the exemption and remittance provided for in Section 1 hereof, which application, after having been granted, shall be entered on the records of the State Tax Commission, or other Commission or board of the State having like jurisdiction, and an order made allowing and granting such exemption and remission and designating the date upon which the same shall expire.

Section 3. If at any time the operation of such plant or factory shall cease for a period of six consecutive calendar months, then and in that event the exemption and remission so granted shall immediately cease and be of no further effect; provided, however, that should such operation be resumed at any time thereafter the State Tax Commission, or other commission or board of the State having like jurisdiction, may in its discretion grant a new period of exemption and remission, but in no event shall the total period or periods of exemption and remission exceed ten years.

Section 4. If any section, sentence, clause or provision of this Act be held invalid or unconstitutional by any court of competent jurisdiction such holding shall not affect any other section, sentence, clause or provision of this Act not in and of itself unconstitutional.

Section 5. This Act shall take effect from and after the date of its passage and approval by the Governor.

Approved April 30, 1935.

No. 65)

(H. 155—Harrison

### AN ACT

To create the Public Works Board of Alabama and to define its powers and duties, and providing for expenses of same.

*Be it enacted by the Legislature of Alabama:*

Section 1. A Board to be known as the Public Works Board of Alabama consisting of a President and four associates who shall be competent persons and qualified electors of the State, is established.

Section 2. Within ten days after the approval of this Act the members of said Board shall be appointed by the Governor and shall hold office at the pleasure of the Governor, and in the event of any vacancy from any cause whatsoever the same shall be filled by the Governor subject to the terms of this Act. No two of said Board members shall be appointed from the same Congressional District. The Board shall have a seal with the words "Public Works Board of Alabama" with such emblem as the Board may prescribe.

Section 3. The Board members shall receive no salary or compensation but shall receive all expenses incurred in attending meetings of the Board. Meetings shall be held at the call of the President of the Board or at the call of the Governor and the Board is authorized to hold meetings in any city or town in the State, as the Board in its discretion may determine or the President of the Board or the Governor may fix.

Section 4. The Governor may employ for said board one secretary at a salary not exceeding \$3,600.00 per annum and one stenographer at a salary not exceeding \$1,500.00 per annum. The Governor shall provide suitable offices and equipment for said Board and also make available to it, out of the Capitol Appropriations, stationery, postage, telephone and telegraphic service. There is hereby appropriated from the funds of the State Treasury not otherwise appropriated the sum of \$10,000.00, or so much thereof as may be necessary for each fiscal year to defray the expenses of the board, the expenses of the members of the board and the salaries provided for herein, together with any expert service that the board may determine is necessary. Said salaries shall be paid monthly as other state salaries are paid and such other expenses as are herein authorized shall be paid upon certificate of the President of the board with the approval of the Governor. The Board shall assess fees against all corporations or authorities presenting matters to the board for action by the board. Such fees in each case shall be not more than one-twentieth of one per centum of the face amount of the bonds or other evidence of indebtedness, the issuance of which shall be presented to the board for approval, and said board shall fix the time in each case in which said fees shall be payable. Said fees shall be converted into the State Treasury when collected.

Section 5. All hearings before the Board shall be open to the public. Three members of the Board shall constitute a quorum. A majority vote of the members of the Board present at the meeting shall be required on all matters determined by the Board and the vote on all matters determined shall be recorded. The Secretary of the Board shall keep minutes of the meetings of the Board, which shall be open to public inspection and which shall be conclusive evidence of the acts of the Board which have been taken. Certified copies of minutes of the meeting or orders of the Board may be obtained at cost to be fixed by the Board, which when certified over the signature of the Secretary of the Board shall be receivable as evidence in any court in this State.

Section 6. Such Board shall have power and authority to make and from time to time amend and repeal by-laws, rules and regulations not inconsistent with this Act to carry into effect the powers and purposes of the Board; to conduct examinations and investigations and to hear testimony and to take proof under oath at its

hearings on any matter material for its information; to issue subpoenas requiring the attendance of witnesses or the production of books or papers and to issue commissions for the examinations of witnesses who are out of the State or unable to attend before the Board or excused from attendance. In addition to all of the other powers herein conferred upon it such Board may do all things necessary and convenient to carry out the powers expressly given in this Act.

Section 7. The Board provided for by this Section shall be known as the Public Works Board of Alabama and may be so designated or referred to in any statute.

Section 8. No bonds or other evidences of indebtedness of any Commission created to construct, reconstruct highway bridges, approaches and appurtenances thereto, any housing authority, any state rural electrification authority, any electric membership corporation, any power district, and any improvement authority shall be issued and/or sold until the consent to the issuance and sale thereof shall have been given by the Public Works Board of Alabama to be evidenced by a resolution or order under seal of such Board granting such consent. Such consent shall be granted only after a public hearing and after a petition requesting such consent has been duly filed by the corporation, authority, district, commission or other body seeking such consent with the Secretary of such Board more than five days before such public hearing. Such petition shall specify the plan or program of the body seeking such consent and the uses to which it is proposed to put the proceeds of such issue and such other matters as are necessary to fully advise such Board of the nature of the proposed project and said petition shall include such other information as may be required by the rules of the Board. The Public Works Board of Alabama shall grant such consent only after it finds that such issue and/or sale serves some public need and is in the public interest. It shall be unlawful for the body seeking such consent or any one to use the proceeds of any such issue and/or sale contrary to the plan and purposes presented to the Board in obtaining its consent thereto.

Section 9. This Act shall become effective upon its passage and approval.

Section 10. That if any section, paragraph, provision or part of this Act shall be declared unconstitutional or invalid, such declaration shall not affect the validity of the remainder hereof.

Approved February 12, 1935.

No. 66)

(HJR 30—Johnston)

## HOUSE JOINT RESOLUTION

WHEREAS we have learned with sorrow of the death of that distinguished citizen of Alabama, Hon. John Barnett Knox, whose service to Alabama covers more than half a century; and

WHEREAS, he, as President of the State Constitutional Convention of 1901, and as a prominent figure in State and national party and political affairs has rendered outstanding service; and

WHEREAS, it is the desire of this Legislature to record its acknowledgment of and appreciation for that splendid service. Now, Therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF ALABAMA, THE SENATE CONCURRING, as follows:

1.—That the Legislature of Alabama does hereby extend its appreciation of the splendid services of the said John Barnett Knox to the State and the nation, and its profound sorrow at the loss the people have sustained in his passing.

2.—The Legislature extends to the bereaved family and relatives its sympathy in this their hour of sorrow.

3.—That the Secretary of the State of Alabama be, and he hereby is, requested to forward to the Widow of said deceased a certified copy of this Resolution.

Approved May 15, 1935.

No. 67)

(H. J. R. 31—Hollis)

## HOUSE JOINT RESOLUTION

WHEREAS United States Senator John Hollis Bankhead, of Alabama, and Hon. Willam B. Bankhead, of Alabama, distinguished representatives of this State in the halls of the Congress in Washington, prepared and secured the enactment of legislation known as the Bankhead Cotton Control Act, which Act has proved to have aided the cotton farmers of this nation far along the road to economic recovery by the limitation of production, as well as the establishment of prices, and

WHEREAS, we as citizens of the State of Alabama, many of us cotton farmers, have been directly benefitted by the passage of the Bankhead Cotton Control Act, and

WHEREAS, every Alabamian is proud of the national service rendered by the two Bankhead brothers, John and Will, in securing the enactment of beneficial legislation for American Cotton Farmers, Now Therefore

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF ALABAMA, THE SENATE CONCURRING:

First, that we hereby express our appreciation to Senator John H. Bankhead and Representative William B. Bankhead for the magnificent fight made by them for the enactment of the Bankhead Cotton Control Act which has proved of such great worth to Alabama and American Cotton Farmers.

BE IT FURTHER RESOLVED; That we as a body, urge them to continue the fight which they have begun for securing the ultimate economic freedom of the Alabama and American Cotton Farmers.

BE IT RESOLVED FURTHER: That copies of this resolution be forwarded by the Secretary of State of Alabama, after approval by the Governor, to the President of the United States, and to Senator Bankhead and Representative Bankhead, at their respective offices in Washington, D. C.; that a copy be sent to the President of the United States Senate for inclusion in the Congressional Record; to the Commissioner of Agriculture and Industries of the State of Alabama and the President of the American Farm Bureau Federation and that copies be given to the Press, so that all may know of the respect for and love of Alabama for its distinguished public servants.

Approved May 15, 1935.

No. 68)

(S. 16—Simpson)

### AN ACT

To amend Section 1897 of the Code of Alabama of 1923 as amended, in relation to the borrowing of money by Municipalities.

*Be it enacted by the Legislature of Alabama:*

Section 1. That section 1897 of the Code of Alabama of 1923, as heretofore amended, be and the same hereby is amended so as to read as follows: 1897. BORROWING MONEY BY MUNICIPALITIES. Cities and towns shall have the right to borrow money for any purpose or purposes not in excess of any limitation imposed by the Constitution, and, in case of loans for temporary use, the same may be evidenced either by negotiable notes or by non-negotiable warrants or certificates of indebtedness which shall not bear exceeding the legal rate of interest, and no obligation of the municipality for money borrowed shall be issued unless signed by the mayor and attested by the clerk, with the seal of the municipality impressed thereon, and a record kept thereof. Any such note warrant or certificate of indebtedness shall be payable not later than twelve months after the date of its issuance but may be re-



newed from time to time until the indebtedness evidenced thereby shall have been paid. License Taxes, ad valorem taxes, rents or revenues from water or any other Taxes or revenues due or to become due to a city or town within twelve (12) months from the date of such note, warrant or certificate of indebtedness may be pledged to secure the payment of any such note, warrant or certificate of indebtedness. Bonds authorized to be issued by cities and towns of the State by act of the Legislature before the adoption of the Constitution, or by laws adopted since the adoption of said Constitution, may be issued by such municipality, the same after becoming reorganized under this Chapter, as before.

Section 2. That this act shall go into effect immediately upon its approval by the Governor.

Approved May 15, 1935.

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No. 70)

(H. 97—Welch

### AN ACT

To authorize and make legal the recording of certified copies of deeds, maps, liens, mortgages, and other papers affecting title to property, which deeds, mortgages, maps or other papers have been recorded in some Probate Office of this State.

*Be it enacted by the Legislature of Alabama:*

Section 1. That hereafter it shall be lawful to record certified copies of deeds, mortgages, maps and other papers affecting the title to property in any Probate Office in this State in which the same should have been recorded when such mortgages, deeds, maps or other papers have heretofore been or may hereafter be recorded in any Probate Office in this State.

Section 2. That when any deed, mortgage, map or other paper affecting title to property has been recorded as provided for in the next preceding section, such recording shall in all things be considered as and shall be given the effect of the original paper if so recorded.

Section 3. That all laws and parts of laws in conflict herewith are hereby repealed.

Approved June 3, 1935.

## AN ACT

To amend Sections 2 and 3 of an Act approved June 16, 1931, entitled "An Act to abolish the Board of Revenue or Commissioners Courts in all counties in this state having a population of 300,000 inhabitants or more according to the last or any subsequent Federal Census and to establish in such Counties a County Commission; to provide for, the election of the members of the said Commission, to fix the term of office, to define the powers and duties of such Commission and to fix the compensation of the members thereof," (General Acts 1931, page 298); to provide the terms of office, the designation thereof, and methods of election of said Commissioners; to provide for the successors of the present Commissioners; to provide for the filling of vacancies by election in the office of said Commissioners, and in other respects.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Sections 2 and 3 of an Act of the Legislature approved June 16, 1931, entitled "An Act to abolish the Board of Revenue or Commissioners Courts in all counties in this state having a population of 300,000 inhabitants or more according to the last or any subsequent Federal Census and to establish in such counties a County Commission; to provide for the election of the members of the said Commission, to fix the term of office, to define the powers and duties of such Commission and to fix the compensation of the members thereof," (General Acts 1931, page 298) be amended to read as follows: Section 2. That there is hereby created a County Commission in all counties in this state having a population of 300,000 or more according to the last or any subsequent Federal census, which Commission shall consist of a president and two associate commissioners who shall be elected by the duly qualified voters as other State and County officials, commencing with the general election in November, 1938, and each four years thereafter. In all primary and general elections held to choose members of such Commission, the ballot shall separately designate and specify the candidates for said offices by separately specifying the President of the Commission and separately specifying one of the associate Commissioners as Commissioner Number One and separately specifying the other Associate Commissioner as commissioner number Two. Candidates for nomination or election to the Commission shall designate which of the three offices on said commission they are seeking. The Commissioners so elected shall hold their respective offices for the term of four (4) years from the first Monday after the second Tuesday of January next after the general election at which they are elected and until their successors are elected and qualified. All members of existing County Commissions in such Counties shall, unless they shall have resigned effective at a future date, or hereafter resign, die, be impeached, or otherwise removed, hold office for the

the remainder of their respective terms of office if such terms do not extend beyond the first Monday after the second Tuesday of January next after the general election in November, 1938. The terms of all present members of existing County Commissions in such Counties shall, unless they sooner and by expiration of term, terminate with the acceptance of office and qualification of the Commissioners elected at the general election of 1938. The successor of any County Commissioner now in office whose term normally expires before the date for the qualification of the said Commissioners to be elected at the general election of 1938 shall be appointed or elected by the method and in the manner now provided by law for a term ending with the acceptance of office and qualification of the said Commissioners to be elected at the general election of 1938.

Section 3. In the event of a vacancy caused by death, resignation, impeachment, recall or any cause except normal expiration of term, such vacancy shall be filled by appointment by the Governor and the person so appointed shall hold office until the next biennial general election by the people at which general election a successor shall be elected to fill the unexpired portion of the term, if any.

Section 4. All laws and parts of laws, general, local or special, in conflict with the provisions of this Act be and the same are hereby expressly repealed.

Section 5. If any sentence, clause, provision or section of this Act is held void or unconstitutional for any reason, such holding shall not invalidate, impair or affect the remainder of this Act which shall remain in full force and effect.

Section 6. This Act shall take effect immediately upon its approval by the Governor of Alabama.

Approved June 3, 1935.

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No. 94)

(H. 168—Hill

## AN ACT

To Amend Section 8797 of the Code of Alabama.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 8797 of the Code of Alabama be amended to read as follows: **DURATION OF TENANCY:** Where no time is specified for the termination of tenancy, the law construes it to be from December 1, to December 1, but if it is expressly a tenancy at will, then either party may terminate it at will, by ten days notice in writing.

Approved June 3, 1935.

No. 97)

(H. 123—McDermott)

## AN ACT

To provide for the inheritance of real and personal property in this state by an adopted child adopted under the statute of a foreign state that confers upon such child the right of inheritance in that state, and to repeal all Laws in conflict therewith.

*Be it enacted by the Legislature of Alabama:*

Section 1. Where the statute of a foreign state under which a child is adopted confers upon the adopted child the right of inheritance from the adopting parent in that state, such adopted child shall by virtue thereof have the right of inheritance under the statutes of descent and distribution of this State to any property, both real and personal, belonging to the adopting parent located in this state.

Section 1½: Each such adopting parent shall have the right to revoke the effect of such adoption in this State by filing a certificate of revocation under oath, in the office of the Probate Judge of the County of his or her residence in this State.

Section 2. All laws and parts of laws in conflict herewith are hereby repealed.

Section 3. This act shall take effect immediately upon its passage and approval by the Governor.

Approved June 6, 1935.

No. 100)

(H. 223—Welch)

## AN ACT

To Prohibit Burglary, Defining The Degrees Of Burglary And Providing For Punishment Of Violators Of This Act.

*Be it enacted by the Legislature of Alabama:*

Section 1. Any person who, in the night time, with intent to steal or to commit a felony, breaks into and enters any inhabited dwelling house, or any other house or building which is occupied by any person lodged therein, is guilty of burglary in the first degree, and must on conviction be punished at the discretion of the jury, by death or by imprisonment in the penitentiary for not less than ten years.

Section 2. Any person who, in the day time, with intent to steal or to commit a felony, breaks into and enters a dwelling house or any other house or building which is occupied by any person lodged therein, and any person who, either in the night time or day time, with intent to steal or to commit a felony, breaks into or enters any building, structure or inclosure, within the curtilage, of any dwelling house though not forming any part thereof, or into

any shop, store, warehouse or other building structure or inclosure in which any goods, merchandise or other valuable thing is kept for use, sale or deposit, provided, such structure or inclosure other than a shop, store, warehouse or building is specially constructed or made to keep such goods, wares or merchandise or other valuable thing, is guilty of burglary in the second degree, and must on conviction be imprisoned in the penitentiary for not less than one year, nor more than ten years.

Section 3. That if any section, clause or provision is held to be unconstitutional, such holding shall not affect any other section, clause or provision or this Act which is not in itself unconstitutional.

Section 4. That this Act shall take effect immediately upon its due passage and approval by the Governor, or its otherwise being a law, provided that this act shall not affect any prosecution heretofore commenced, or any offense heretofore committed, but such cases and offenses shall be governed by the law as it is prior to its going into effect.

Section 5. All laws and parts of laws in conflict herewith are hereby repealed.

Approved June 6, 1935.

No. 101)

(H. 233—Denson

### AN ACT

To Amend An Act Entitled "An Act To Provide For A Change Of Venue In Actions Pending In Any Court At The Time Of A Transfer Of A Portion Of The Territory Of One County To Another County, By Change Of Boundary Line Or Otherwise, And To Provide For Payment Of Costs In Such Actions," And Approved November 1, 1932.

*Be it enacted by the Legislature of Alabama:*

That an Act Entitled, "An Act to provide for a change of venue in actions pending in any Court at the time of a transfer of a portion of the territory of one County to another County, by change of boundary line or otherwise, and to provide for payment of costs in such actions and approved November 1, 1932," be and the same is hereby amended so as to read as follows:

Section 1. That upon the detachment of territory from one County and its inclusion within the boundary lines of another adjoining County, whether effected by change of boundary line or otherwise, any action pending, whether civil or criminal, at the time of such transfer of territory in any Court from which such territory is transferred or any proceeding pending in the Probate Court at the time of such transfer of territory which, if such action or proceeding had been initiated or commenced or indictments

returned, after such transfer of territory would necessarily have been commenced in the County to which the territory was transferred, shall be removed for further proceedings and prosecution to the County to which such territory was transferred or added, and the Clerk, or Register, or Probate Judge, shall forthwith send to the Clerk, or Register, or Probate Judge, as the case may be, of the County to which such territory was transferred or added all papers, records, and proceedings pertaining to such action or proceeding.

Section 2. In the event of the removal of such actions or proceedings, all costs accrued up to the time of the removal, and unpaid shall abide the event of the action or prosecution, or proceeding, and be collected by the officers of the County to which the removal is made, and then remitted to the officers of the Court of the County from which the removal was made.

Section 3. The provisions of this Act shall be applicable whether such transfer of territory occurred before or after the approval of this Act, and this Act shall take effect immediately upon its passage and approval.

Approved June 6, 1935.

No. 107)

(H. 334—Davis

### AN ACT

To amend Section 3 of an act entitled "An Act to prescribe the qualifications, duties, and to impose additional duties and fix the compensation and allowance of coroners in all counties of this State which now have or may hereafter have a population of more than seventy-five thousand people and less than one hundred thousand people, according to the last United States census, or any such census which may hereafter be taken." (Approved March 9, 1931).

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 3 of an act entitled "An act to prescribe the qualifications, duties, and to impose additional duties and fix the compensation and allowance of coroners, in all counties of this State which now have or may hereafter have a population of more than seventy-five thousand people and less than one hundred thousand people, according to the last United States census, or any such census which may hereafter be taken." (Approved March 9, 1931), be and the same is hereby amended so as to read as follows: Section 3. That each Coroner in each county in the class of counties as described in section one of this Act shall receive for his compensation, and for other expense and ex-officio services of said Coroner the sum of Nine Hundred Dollars per annum, which sum shall be payable in equal monthly installments out of the general

fund of the counties affected by this Act upon warrants issued by the boards of county commissioners or boards of revenue in said counties, *provided* that if in any such county the Coroner is a duly qualified and licensed physician the board of revenue or court of like jurisdiction in said county is hereby authorized to make an allowance to the Coroner of an additional sum of Seventy-Five Dollars per month, payable out of the county treasury for the performance of post mortems examination and for the operation of a county morgue, and such monthly allowance shall be in lieu of all medical fees now required by law to be paid out of the county treasury for post mortem and other medical investigations by the Coroner's office.

Section 2. That all laws and parts of laws in conflict with the provision of this Act are hereby expressly repealed.

Section 3. That this act shall become effective immediately upon its approval by the Governor.

Approved June 6, 1935.

No. 110)

(S. 70—Kelly

### AN ACT

To amend Section 231 of the Code of Alabama of 1923.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 231 of the Code of Alabama of 1923, be amended so as to read as follows: 231. PREFERRED CLAIMS AND THE ORDER OF THEIR PRIORITY.—The following claims are declared to be preferred claims against the county, and they shall be given priority in the order named: 1. Costs of heating the county jail, of supplying it with wholesome water for drinking and bathing, of keeping it in a cleanly condition, and free from offensive odors, and of providing it with necessary water closets and dry earth, beds, bedding, and clothing; fuel; water; light; and janitor's services at the courthouse and jail; premiums for fire insurance on the public buildings of the county; premiums on surety bonds of public officers where authorized by law to be paid by the county. 2. Expenses of the courts; claims of grand and petit jurors, extra bailiffs allowed by the court for services during the term, and expenses of board and lodging of jurors engaged in trial of cases where ordered by the court to be kept together, as shown by the certificates issued by the clerk to them; claims of the court reporters as shown by the certificates issued to them by the judge of the circuit; compensation of the members of the court of county commissioners or boards of revenue; compensation of deputy sheriffs, the probate judge, the sheriff, tax assessor, county

treasurer, clerk of the circuit court, hard labor agent, jury commissioners, jail matrons, jail guards and deputy solicitor for services performed by them and authorized to be paid to them by law; claims for the removal of prisoners; claims for conveying insane persons to State institutions. 3. Claims for necessary stationery and office supplies, including typewriters and supplies for offices of the probate judge, clerk and register and court reporters; and claims of the secretary of state for certified copies of field notes. 4. All claims authorized to be paid from funds appropriated by the governing body of the county to assist in financing a program of agriculture and farm home life in cooperation with the Extension Service created under an Act of the Congress of the United States approved May the 8th, 1914, and generally known as the Smith-Lever Act for Extension work in agriculture and home economics. 5. Claims for the support of the poor. 6. Interest on bonds heretofore and hereafter lawfully issued by the county, in the order of their issuance, as evidenced by the interest coupons attached to such bonds or by the bonds themselves. For the payment of the above recited claims, in the order named, it shall be the duty of the county treasurer or custodian of the county funds to set apart a sufficient fund from the moneys of the county and he and his official bond shall be held liable for a failure so to do, insofar as the funds of the county make it possible for him so to do.

Approved June 6, 1935.

No. 111)

(S. 113—Mooneyham

### AN ACT

To amend Section 8 of an Act entitled an Act to create, establish and regulate Inferior Courts in all precincts lying within or partly within all cities of the State of Alabama now having as many as 35,000 and less than 67,000 population, according to the last Federal Census, and in all cities that may hereafter have as many as 35,000 and less than 67,000 population, according to any subsequent Federal Census. Such courts to be in lieu of Justices of the Peace in said precincts and in lieu of all other courts heretofore created in lieu of Justices of the Peace in said precincts. To provide and define the jurisdiction and powers of such courts and the terms thereof; to provide for the judges and officers of such courts, their terms of office and the manner of their selection and their powers, duties and compensation; to fix the fees and costs for such courts; to provide the rules and procedure for such courts and for the operation thereof; to provide for registering of its judgments and a lien of its judgments, and to abolish Justices of the Peace in such precincts, and to abolish courts heretofore created in lieu of such Justices of the Peace; and to provide for the transfer of the causes from the abolished courts to the courts created by this Act. Approved Feb 5, 1931.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 8 of an Act entitled an Act to create, establish and regulate Inferior Courts in all precincts lying within



or partly within all cities of the State of Alabama now having as many as 35,000 and less than 67,000 population, according to the last Federal Census, and in all cities that may hereafter have as many as 35,000 and less than 67,000 population, according to any subsequent Federal Census. Such courts to be in lieu of Justices of the Peace in said precincts and in lieu of all other courts heretofore created in lieu of Justices of the Peace in said precincts. To provide and define the jurisdiction and powers of such courts and the terms thereof; to provide for the judges and officers of such courts, their term of office and the manner of their selection and their powers duties and compensation; to fix the fees and costs for such courts; to provide the rules of procedure for such courts and for the operation thereof; to provide for registering of its Judgments and a lien of its judgments and to abolish Justices of the Peace in such precincts, and to abolish courts heretofore created in lieu of such Justices of the Peace; and to provide for the transfer of the causes from the abolished courts to the courts created by this Act, approved Feb 5, 1931, be amended so as to read as follows: Section 8. The Judge of such court shall receive a salary of Forty Two Hundred and no/100 Dollars per annum, payable in equal monthly installments out of the general fund of the treasury of said county, upon his warrants drawn upon the county treasury in the same way and manner as the salary other county officers and employees are now paid.

Section 2. This Act shall become effective immediately upon its passage and approval by the Governor.

Approved June 6, 1935.

No. 113)

(H. 165—Shaver

#### AN ACT

To Amend Section 3973, Code Of Alabama 1923 Relative To Embezzlement By Public Officers.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 3973, Code of Alabama 1923, be amended so as to read as follows: 3973. EMBEZZLEMENT BY PUBLIC OFFICERS.—Any probate judge, clerk of a court of record, register of the circuit court, sheriff, coroner, tax collector, county treasurer, trustee of public schools, notary public, justice of the peace, constable, or other public officers who knowingly converts to his own use, or permits another to use any of the revenue of the state, or of any county thereof, or any money paid into his office, or received by him in his official capacity, is liable to indictment. and, on conviction, must be punished as if he had stolen it;

but none of the officers herein named shall be criminally liable under the provisions herein contained for depositing the revenue of the state or county, or any money paid into his office or received by him in his official capacity, in a bank if the officer making the deposit in good faith requires, and takes from the bank, at or before making the deposit, good and sufficient security to secure the payment of the funds deposited; or if the bank in which such deposit is made has membership in the Federal Deposit Insurance Corporation, or has its deposits guaranteed by such corporation, and the deposit of the officer in such a bank does not exceed the sum guaranteed by such corporation to each depositor, then such officer making the deposit need not require nor take from such bank any security to secure the payment of the funds so deposited so long as the balance on deposit by him in such bank does not exceed the sum guaranteed by such corporation to each depositor.

Approved June 6, 1935.

No. 114)

(H. 269—Parker

### AN ACT

To further define, regulate and license mutual aid, benefit or industrial companies or associations.

*Be it enacted by the Legislature of Alabama:*

Section 1. All companies or associations, whether voluntary or incorporated under the laws of this or any other state, doing in this state a business limited to the issuing of certificates or policies to or agreeing with their members or policyholders upon the birth or death of any child, upon marriage, death, sickness, or upon any physical disability of such member or policy holder, to pay money or render aid, including burial benefits or the furnishing of complete funerals to him or to others dependent upon him, or beneficiary designated by him, which money or aid is derived from donations, fees, dues, assessments or premiums, are hereby declared to be mutual aid, benefit or industrial companies or associations.

Section 2. It shall be unlawful for any person, firm, association or corporation to engage in performing the functions of such a mutual aid, benefit or industrial company or association except as provided under the terms of this act.

Section 3. Every such company or association shall, before transacting any business in this state, submit to the Superintendent of Insurance copy of its charter, by-laws, contracts or policies, schedule of rates and other instruments governing its operation, together with its financial statement. If upon examination thereof, the superintendent of Insurance finds that the schedule of rates is

adequate to cover the risk under its contracts or policies, and finds that the charter, by-laws, contracts, certificates, policies and financial statement of such company or association meet all other requirements of this act and of any amendment subsequently made of it, he shall issue to such company or association a license to transact business as a mutual aid, benefit or industrial company or association. No such company or association shall be licensed, authorized or permitted to transact business in this State until the Superintendent of Insurance has approved its charter, by-laws, contracts, certificates, policies and financial set up and finds that they comply fully with all the requirements of this act.

Section 4. Effective on and after December 31, 1935, every such company or association, whether heretofore licensed and now doing business in this State, or hereafter so licensed, shall deposit with, and thereafter maintain on deposit with, the Treasurer of the State of Alabama, bonds of the United States Government or of the State of Alabama, or of any subdivision thereof, or first mortgages on real estate securing an indebtedness not in excess of fifty (50%) percent of the appraised value thereof, subject to the approval of the Superintendent of Insurance of this State, in an amount to be determined each year as follows: Every such company or association whose annual gross premium receipts from business done within the State of Alabama for the preceding year ending December 31st are less than Fifty Thousand (\$50,000.00) Dollars shall so place and maintain on deposit securities of the kind hereinbefore specified worth not less than Five Thousand (\$5,000.00) Dollars; every such company or association whose said annual gross premium receipts for the preceding year ending December 31st are more than Fifty Thousand (\$50,000.00) Dollars and less than One Hundred Fifty Thousand (\$150,000.00) Dollars, shall so place and maintain on deposit securities of the kind hereinbefore specified worth not less than Ten Thousand (\$10,000.00) Dollars; every such company or association whose said annual gross premium receipts for the preceding year ending December 31st are more than One Hundred Fifty Thousand (\$150,000.00) Dollars and less than Two Hundred Fifty Thousand (\$250,000.00) Dollars, shall so place and maintain on deposit securities of the kind hereinbefore specified worth not less than Fifteen Thousand (\$15,000.00) Dollars; every such company or association whose said annual gross premium receipts for the preceding year ending December 31st are more than Two Hundred Fifty Thousand (\$250,000.00) Dollars and less than Three Hundred Fifty Thousand (\$350,000.00) Dollars, shall so place and maintain on deposit securities of the kind hereinbefore specified worth not less than Twenty Thousand (\$20,000.00) Dollars; every such company or association whose said annual gross premium receipts for the preceding year ending December 31st are

more than Three Hundred Fifty Thousand (\$350,000.00) Dollars and less than Five Hundred Thousand (\$500,000.00) Dollars, shall so place and maintain on deposit securities of the kind hereinbefore specified worth not less than Twenty-five Thousand (\$25,000.00) Dollars; every such company or association whose said annual gross premium receipts for the preceding year ending December 31st are more than Five Hundred Thousand (\$500,000.00) Dollars and less than Seven Hundred Fifty Thousand (\$750,000.00) Dollars, shall so place and maintain on deposit securities of the kind hereinbefore specified worth not less than Fifty Thousand (\$50,000.00) Dollars; every such company or association whose said annual gross premium receipts for the preceding year ending December 31st are more than Seven Hundred Fifty Thousand (\$750,000.00) Dollars and less than One Million (\$1,000,000.00) Dollars, shall so place and maintain on deposit securities of the kind hereinbefore specified worth not less than Seventy-Five Thousand (\$75,000.00) Dollars; every such company or association whose said annual gross premium receipts for the preceding year ending December 31st are more than One Million (\$1,000,000.00) Dollars, shall so place and maintain on deposit securities of the kind hereinbefore specified worth not less than One Hundred Thousand (\$100,000.00) Dollars. Any such company or association so depositing such securities shall be entitled to the income thereof, and may from time to time, with the approval of the Superintendent of Insurance, change in whole or in part the securities composing such deposit for other competent securities of equal value. Whenever any such company or association shall have on deposit with the Treasurer of the State of Alabama securities of a value in excess of the requirements as hereinbefore provided, it may, upon application and proper showing to the Superintendent of Insurance and to the State Treasurer, withdraw securities in such excess value. Provided, however, that any such company or association hereafter organized and licensed as herein provided to commence business shall, before transacting any business in this State, so place and maintain on deposit securities of the kind hereinbefore specified worth not less than Three Thousand (\$3000.00) Dollars.

Section 5. Every such company or association shall be required to set out in the contracts or policies issued by it, the reasonable retail value of benefits and aid which it contracts to furnish and the services which it contracts to render, together with the amount on which reserves will be maintained and computed as herein provided.

Section 6. The Superintendent of Insurance shall each year cause all such outstanding contracts or policies of every such company or association to be carefully valued as of December 31st of the preceding year, at forty (40%) per cent of the retail value of

the benefits, aid or services provided under the terms of its contracts or policies, or at the average wholesale cost of the funeral supplies, benefits, aid and services so provided for, whichever amount be the greater, as shown by the number of contracts or policies in force according to the books and records of such company or association, and shall at the same time compute the net value of all such outstanding contracts or policies of every such company or association in the following manner: On all outstanding contracts or policies issued prior to the passage of this act, the Superintendent of Insurance shall compute the net value thereof by the two following separate methods: Method No. 1: On the basis of \$1.50 for each one hundred dollars at risk. Method No. 2: On the basis of the "Combined Experience" or "Actuaries' Table," or "The American Experience Table" rate of mortality (Illinois Standard of valuation), with interest at the rate of four (4%) per cent per annum. On each December 31st after the passage and approval of this act, the net value of all such outstanding contracts or policies issued prior to the passage of this act shall be the net value as computed by said Method No. 1, plus as many times one-tenth of the difference, if any there be, between the net value as computed by Method No. 1 and the net value as computed by said Method No. 2, as the number of full years elapsed since the passage of this act; and said net value on each December 31st shall continue to be so computed until such time as said net value so computed shall be equal to the net value on such contracts or policies as computed exclusively by Method No. 2, after which time the net value of all such outstanding contracts or policies shall be the net value as computed by Method No. 2, exclusively. On all outstanding contracts or policies issued on and after the passage of this act, the Superintendent of Insurance shall compute the net value thereof on the basis above set out in Method No. 2, and the net value of all such outstanding contracts or policies shall on each December 31st thereafter be the net value as so computed. The net value of all the outstanding contracts or policies of every such company or association as of each December 31st, ascertained and computed in accordance with the foregoing provisions, shall be deemed its liability on account of said outstanding contracts or policies, other than accrued claims, to provide for which, and for the protection of its contract or policyholders, each such company or association shall hold net assets of an amount equal to such net value, which reserve assets may consist of: 1. Cash. 2. Bonds of the State of Alabama or any political subdivision thereof. 3. Bonds of the United States of America or any authority or political subdivision thereof, payment of the principal and interest of which bonds are guaranteed by the United States of America. 4. First mortgages on real estate securing indebtedness not to exceed fifty

(50%) percent of the fair value thereof. 5. Real estate at a value not to exceed its fair market value. 6. Income-producing stocks and bonds of commercial, industrial, manufacturing and utility corporations which have a consistent record of earnings and conservative management, and which have a realizable value, on which the dividend or interest rate shall not be less than 4%. 7. Net due premiums and policy loans, if any. 8. Funeral supply inventories consisting of caskets, suits, robes, dresses, embalming supplies, at the market value thereof, and funeral equipment consisting of automobiles, hearses, ambulances, funeral cars and other motor vehicle equipment, less depreciation at the rate of eighteen (18%) per cent per annum, which supply inventories and funeral equipment shall be necessary to the full performance by such Company or Association of the terms of its outstanding contracts or policies, provided however, that credit allowed for such funeral supply inventories as reserve assets shall in no event exceed twenty-five (25%) per cent of the gross admitted assets of any such Company or Association.

Section 7. At least once every two years, and oftener whenever he deems it prudent to do so, the Superintendent of Insurance shall, personally or by his Deputy, together with some competent person appointed by him for that purpose, visit each such domestic company or association, and examine its books and records as to its business affairs, especially as to its financial condition and ability to fulfill its obligations and as to its compliance with the law. He shall in like manner visit and examine, or cause to be visited and examined by some competent person or persons whom he may appoint for that purpose, any foreign company or association applying for admission or already authorized to do business in this State whenever he deems it prudent for the protection of contract or policy holders in this State, or believes that any such company or association has violated any of the provisions of this act, or any of the laws of this State, relating to foreign corporations.

Section 8. Whenever the Superintendent of Insurance deems it necessary to examine any such company or association, such examination shall be made by the Superintendent of Insurance, his Deputy, or such other qualified person or persons as he may designate or appoint for such purpose. Any such company or association examined under the provisions of this act, shall pay the proper charges incurred in such examination, including the expense of the Superintendent of Insurance, or his Deputy, and the expenses and compensation of his assistants employed therein.

Section 9. If, upon examination, the Superintendent of Insurance is of the opinion that any such domestic company or association is insolvent, or has exceeded its powers, or has failed to com-

ply with any provisions of the law, or that its condition is such as to render its further proceedings hazardous to the public, or to its contract or policy holders, he may apply to a court of competent jurisdiction through the Attorney General of the State to issue an injunction restraining it in whole or in part from further proceeding with its business. Such court may, in its discretion, issue the injunction forthwith, or may, upon notice and hearing thereof, and after a full hearing of the matter, dissolve or modify such injunction or make it perpetual, and may make all orders and decrees needful in the premises, and appoint agents or receivers to take possession of the property and effects of such company or association, and settle its affairs subject to such rules and orders as the court may from time to time prescribe according to the course of proceedings in equity.

Section 10. If the Superintendent of Insurance is of the opinion, upon examination or other evidence, that any such foreign company or association, is in an unsound condition, that its actual funds, exclusive of its capital, if any, are less than its liabilities, or if it has failed to comply with the law, or if its officers or agents refuse to submit to examination or to perform any legal obligation in relation thereof, or if it fails to pay any final judgment against it in favor of a citizen of this State, he may revoke or suspend all licenses and certificates of authority granted to it or its agents, and shall cause notification thereof to be published in one or more newspapers of general circulation, and no new business shall thereafter be done by it or its agents in this State while such default or disability continues, nor until its authority to do business is restored by the Superintendent of Insurance; but if ground for revocation or suspension relates only to the financial condition or soundness of such company or association, or to deficiency in its assets, he shall notify such company or association not less than ten days before revoking its authority to do business in this State, and he shall specify in the notice the particulars of the alleged violation.

Section 11. Every such company or association transacting business in this State shall, on or before the first day of March of each year, file with the Superintendent of Insurance a statement showing the amount of gross premiums received by it for business done in this State during the preceding year ending December 31st, less return premiums, and the number of contracts or policies outstanding, at which time every such domestic company, or association shall pay to the Superintendent of Insurance One (\$1.00) Dollar on each One Hundred (\$100.00) Dollars, and every such foreign company or association shall pay to the Superintendent of Insurance Two (\$2.00) Dollars on each One Hundred (\$100.00) Dollars, of such gross premiums, less return premiums, as a tax for doing business in the State for the current year. Every such com-

pany or association shall also pay to the Superintendent of Insurance at the time it begins business in this State and on or before March 1st of each year thereafter, the sum of Two Hundred (\$200.00) Dollars as a license for transacting business within this State during the calendar year ending December 31st. In ascertaining the premium tax which shall be paid by any such domestic company or association as hereinbefore provided, there shall be deducted from the amount of premiums upon which taxes are due the aggregate amount of loans of money secured by existing mortgage or mortgages to it on real estate located in this State, upon which mortgages there shall have been paid the recording privilege tax provided by law, and provided further that any such domestic company or association paying to the State a tax on its property or shares may deduct the same from the amount of its tax as required by this Section.

Section 12. In addition to said amount paid to the State, there may by ordinance be levied and collected by the several cities and towns of the State from every such company or association, for the privilege of doing business within the limits of said cities and towns, a privilege or license tax, to be computed on the basis of population of said cities and towns, as fixed by the last Federal census, not exceeding the following schedule, viz: (1) Each such company or association, in cities and towns having a population of less than five (5) thousand, \$10.00; (2) Each such company or association in cities and towns having a population of five (5) thousand and less than ten (10) thousand, \$15.00. (3) Each such company or association in cities and towns having a population of ten (10) thousand and not exceeding fifty (50) thousand, \$20.00. (4) Each such company or association in cities and towns having a population of more than fifty (50) thousand, \$50.00. Upon the payment or tender of the amount named in any such ordinance of any city or town, any such company or association which is authorized to do business in this State shall be permitted to do business in said city or town, through its agents, who shall not be subject to or required to pay any further privilege or occupational tax for representing such company or soliciting business for it in such city or town, or its police jurisdiction.

Section 13. Every such company or association licensed to do business in this State shall obtain from the Superintendent of Insurance, a certificate of authority and license upon such terms and conditions as may be now or hereafter required by law for each agent or other representative of such company or association writing or soliciting business in this State, which certificate and license shall be renewable each year, in keeping with the requirements of any law now or hereafter applicable thereto, and for the issuance of each such certificate of authority and license the



Superintendent of Insurance shall collect a license fee of five (\$5.00) Dollars, and such examination fee as may be otherwise required by law. The issuance or cancellation of all such certificates and licenses and the agents licensed hereunder shall be governed by the provisions of the law of this State in reference to insurance agents and the issuance or cancellation of certificates or licenses for agents of insurance companies transacting business in this State.

Section 14. Nothing herein contained is intended nor shall it be construed to apply to any secret or benevolent society, such as Masons, Odd Fellows, Knight and Ladies of Honor, Knights of Pythias, or like orders, nor to any association organized under the lodge system for purely benevolent purposes with the ritualistic form of work, nor to any company, association or society organized and operating under the general insurance laws of this or any other state, and maintaining on deposit with the State Treasurer or other officer of the State in which it is incorporated, One Hundred Thousand (\$100,000.00) Dollars in approved securities.

Section 15. Any such company or association may also write and issue contracts or policies with benefits payable in cash, the gross benefit payable under each such contract or policy not to exceed Five Hundred (\$500.00) Dollars, in which event the Superintendent of Insurance shall also each year compute the net value as of the 31st day of December of the preceeding year, of all such outstanding contracts or policies of each such company or association upon the basis of the "Combined Experience" or "Actuaries' Table" or "The American Experience Table" rate of Mortality (Illinois standard of valuation), with interest at the rate of four (4%) per cent per annum, and the aggregate net value so ascertained of such contracts or policies of any such company or association shall be deemed its liability on account of said contract or policy obligations, other than accrued claims. Each such company or association so issuing contracts or policies with benefits payable in cash must, in addition to holding and maintaining the assets hereinbefore in Section 6 required, hold and maintain cash or bonds of the United States Government or of the State of Alabama, or of any subdivision thereof, or first mortgages on real estate securing indebtedness not in excess of fifty (50%) per cent of the value thereof, in an amount equal to the aggregate net value of all such outstanding contracts or policies. Whenever any such foreign company or association issuing contracts or policies in this State with benefits payable in cash, shall present to the Superintendent of Insurance of this State a certificate from the Superintendent of Insurance or like officer of another state, as to the value of such contracts or policies in force in this State, the Superintendent of Insurance of this State shall be allowed to accept such valuation in

lieu of his own valuation, which valuation shall be according to the standard fixed in this section. The Superintendent of Insurance shall allow to the credit of any such foreign company or association, issuing contracts or policies in this State, with benefits payable in cash, in the account of its financial condition, such assets as are or can be made available for the payment of losses in Alabama. He shall not allow stockholders' obligations of any description as part of the assets or capital of any such company or association so issuing contracts or policies in this State, with benefits payable in cash, unless the same are secured by collateral satisfactory to the Superintendent of Insurance.

Section 16. Any such company or association doing business in this State without having obtained a license, shall be guilty of a misdemeanor and, on conviction, shall be punished by a fine of not less than Two Hundred (\$200.00) Dollars, nor more than Five Hundred (\$500.00) Dollars for each offence. Any officer or agent of any such company or association whose duty it is to make the annual report to the Superintendent of Insurance, or to designate the principal place of business, or agent for service of process of such company or association as required by law, who fails so to do, or who willfully makes a false report, shall be guilty of a misdemeanor and shall, on conviction, be fined not less than Two Hundred (\$200.00) Dollars, nor more than Five Hundred (\$500.00) Dollars, and may be imprisoned in the county jail for not fewer than ten (10) days nor longer than one year. Any person who acts as solicitor, collector or otherwise as agent of any such company or association, which has not complied with the provisions of this act, shall be guilty of a misdemeanor and shall, on conviction, be fined not less than Two Hundred (\$200.00) Dollars, nor more than Five Hundred (\$500.00) Dollars, and may be imprisoned in the county jail for not fewer than ten (10) days nor longer than one (1) year.

Section 17. This act shall become effective immediately upon its passage and approval.

Section 18. All existing laws relating to individuals, copartnerships, corporations or associations, whether voluntary or incorporated under the laws of this or any other State doing the business of a mutual aid, benefit or industrial company or association as hereinbefore defined, to the extent that the same are in conflict with the provisions hereof, are hereby repealed.

Section 19. If any portion of this act shall be declared unconstitutional the remainder of this act shall nevertheless remain in full force and effect.

Approved June 10, 1935.

No. 116)

(H. 173—Douglass

## AN ACT

To fix and regulate guardian ad litem fees, commissions and allowances to be charged as court costs in all counties of this State having a population of 300,000 or more according to the last decennial Federal census or which may in the future have such a population according to any such Federal census which may hereafter be taken and to provide for the paying out of such fees, commissions or allowances to whomsoever may be entitled thereto: and to repeal all laws and parts of laws in conflict with this Act.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the fees, commissions and allowances of guardian ad litem in all counties of this State having a population of more than 300,000 according to the last decennial Federal census or which may hereafter have such population as ascertained by any future Federal decennial census, in all suits and proceedings where the services of a guardian ad litem is required. The fees, commissions and allowances of such guardian ad litem shall be one per centum of the total amount of interest of the minor or minors who are represented by said guardian ad litem provided that the minimum fee which in no case be less than five dollars and the maximum fee which in no case be more than one hundred dollars and that fees of such guardian ad litem shall be charged, assessed and collected as other costs in such cases or proceedings.

Section 2. That this Act shall be the exclusive law of such courts governing the fees and allowances of guardian ad litem.

Section 3. That if any section, clause or provision of this Act is held to be unconstitutional by any court of competent jurisdiction such holding shall not effect any other section, clause or provision hereof.

Section 4. That all laws or parts of laws local, special or general in conflict herewith are hereby repealed.

Section 5. This Act shall go into effect on its due passage and approval by the Governor.

Approved June 12, 1935.

No. 132)

(H. 159—Toomer

## AN ACT

To prohibit mule or horse dealers, owners of live stock, traders, breeders, or any person from burning or cauterizing or changing the incisor or other teeth of horses, mules or any other soliped in order to fraudulently make said animal appear younger than he really is; to prohibit the bringing into this State of mules or horses or other solipeds whose incisors or other teeth have been burned or cauterized or changed in order to fraudulently make said animal appear younger than he really is; to define the evidence necessary for a conviction and to prescribe the penalty for the violation of the provisions of this Act.

*Be it enacted by the Legislature of Alabama:*

Section 1. Changing the natural appearance or condition of the teeth of horses, mules, or other solipeds is prohibited. It shall be unlawful for anyone or person in Alabama to burn, cauterize or mechanically change the natural appearance or condition of horses, mules or other solipeds teeth in order to fraudulently make any one or all of said animals appear younger than they really are.

Section 2. It shall also be unlawful to transport or move in any way for any purposes into Alabama any horses, mules or other solipeds into Alabama that have had any of their teeth burned, cauterized, or changed in any way to make them look younger than they really are.

Section 3. The evidence required for conviction of any and all violators of this law must be confirmed or made by a Graduate, Licensed Veterinarian, and when necessary the State Veterinarian or a Graduate Veterinarian, selected by the State Veterinarian shall determine and swear to the changes that have been made in the teeth of the animal or animals.

Section 4. Proceedings and penalties for violation of Act. Upon complaint of any citizen that said animals have had their teeth burned, cauterized, or mechanically changed, in order to change the teeth indications of their age by the owner, dealers, traders, or persons in charge of said animals upon conviction shall be fined Twenty (\$20.00) Dollars to One Hundred (\$100.00) Dollars, or be imprisoned in county jail for one to six months for each and every violation; also, each and every person who brings or moves horses, mules, or other solipeds into Alabama, that have had their teeth burned, or cauterized, as described in Section Two, shall be fined Fifty (\$50.00) Dollars to Three Hundred (\$300.00) Dollars, or be imprisoned in the county jail for two to twelve months for each and every violation.

Section 5. This law shall go into effect immediately upon the signature of the Governor.

Approved June 12, 1935.

No. 133)

(H. 322—Arnold)

## AN ACT

To Provide For The Payment Of Official Expenses Of Members Of The Legislature.

*Be it enacted by the Legislature of Alabama:*

Section 1. The Clerk of the House shall provide each member of the House, and the Secretary of the Senate shall provide each member of the Senate, with quarters suitable for the transaction of public business, stamps and stationery necessary for proper attention to correspondence relating to official business, stenographic service for handling correspondence relating to official business, such telephone and telegraph and other like service as is necessary to the efficient transaction of public business.

Section 2. A sum of money equal to three hundred dollars per day for each calendar day the Legislature has been in session, and a like amount for each calendar day the Legislature is in session during the year 1935, and each year thereafter, is hereby appropriated for such purpose, in addition to any other money appropriated for expenses of the Legislature.

Section 3. The State Treasury shall pay to the Clerk of House two hundred twenty-five dollars for each calendar day the Legislature has been and is in session, and seventy-five dollars per day to the Secretary of the Senate for each calendar day the Legislature has been and is in session, Sundays excepted; and it shall be the duty of said Clerk and Secretary, respectively, to disburse said sums, daily or weekly, for the purposes above enumerated, the amount disbursed by the Clerk of the House to be disbursed under the direction and with the approval of the Speaker of the House and the amount disbursed by the Secretary of the Senate to be disbursed under the direction of and with the approval of the Lieutenant-Governor. Where members of the House and Senate have already expended their own funds for the purposes set out in Section 1, they may be reimbursed for such expenditure in such amount as approved by the Speaker of the House or the Lieutenant-Governor. Any unexpended portion of said sum shall be returned to the State Treasurer within five days after the adjournment of the Legislature.

Section 4. This Act shall take effect upon its approval by the Governor and all laws and parts of laws in conflict herewith are hereby specially repealed.

Approved June 12, 1935.

## AN ACT

To authorize and empower the Supreme Court of Alabama to adopt a new system of rules applicable to the equity jurisdiction of the courts of Alabama and to make future changes therein; to declare the effect of existing statutes relating to equity pleading, practice and procedure and to repeal hitherto controlling statutes and rules; to provide a committee of the Bar of the Supreme Court to advise the Court in such labor and to provide for the expenses of said committee and further regulating publication of said new system of rules before adoption and a public hearing thereon.

*Be it enacted by the Legislature of Alabama:*

Section 1. The Supreme Court of Alabama or a majority thereof are hereby authorized and empowered while sitting as a Court to adopt a new system of pleading, practice and procedure in actions and proceedings under the equity jurisdiction of the courts of Alabama, including the Supreme Court of Alabama, for the purpose of simplifying the same and of promoting the speedy determination of equity litigation upon its merits; and in so doing the Supreme Court of Alabama may disregard any and all statutes and rules of court or court decisions now existing which may be inconsistent with any new rule or rules they may adopt, in so far as is not prevented by the Constitution of Alabama and the Constitution of the United States.

Section 2. The Supreme Court of Alabama is further authorized and empowered to adopt changes in such new system of rules from time to time.

Section 3. All statutes relating to equity pleading, practice and procedure shall have force and effect only as rules of court and shall remain in effect unless and until modified or suspended by rules promulgated pursuant hereto.

Section 4. To aid and advise the Supreme Court of Alabama in the preparation of such system of rules as they may adopt under authority of this Act, the Chief Justice of the Supreme Court of Alabama is authorized to appoint a committee of not exceeding three members of the Bar of said Court, substituting members of said Committee from time to time, which committee shall serve without pay, but shall receive their expenses, as may be approved by the Chief Justice of the Supreme Court of Alabama.

Section 5. Before adopting a new system of rules, under the authority of this Act, the Supreme Court of Alabama shall publish the said system of rules in pamphlet form and see that they are distributed throughout the Bar of this State, and shall give thirty days' notice of their intention to adopt the same, by publication of the proposed date set for adoption, in a newspaper published in Montgomery, Alabama; and on said date, whether in term time or

vacation, the Supreme Court shall meet, and consider the said proposed rules; and shall give authority to citizens wishing to attend, to be heard against said proposed rules in so far as they repeal existing statutes of this State; and the Court may adjourn said hearing from time to time.

Section 6. All presently existing statutes of this State in so far as they affect the practice and procedure under the equity jurisdiction of the Courts of Alabama are hereby repealed from and after the adoption by the Supreme Court of Alabama of a new system of rules as authorized by this Act, in so far as such presently existing statutes shall be in conflict with such new system of rules.

Approved June 15, 1935.

No. 137)

(H. 227—Welch.

### AN ACT

To Amend Sections 3456 and 3457 Of The Code of Alabama Of 1923, By Making Such Sections Applicable To All Subordinate Or Under-Officers, Employees And Agents Of The Chief Officers Now Mentioned In Said Sections.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 3456 of the Code of Alabama of 1923 be and the same is hereby amended so as to read as follows: 3456 (6400) (4409) (3913) (4116) (3560) (20) BRIBERY OF EXECUTIVE, LEGISLATIVE, OR JUDICIAL OFFICERS:—Any person who corruptly offers, promises, or gives to any executive, legislative or judicial officer, or to any deputy clerk, agent or servant of such executive, legislative or judicial officer after his election, appointment, employment, either before or after he has been qualified, any gift, gratuity, or thing of value, with intent to influence his act, vote, opinion, decision or judgment, on any cause, matter, or proceeding, which may be then pending, or which may be by law brought before him in his official capacity, must on conviction be imprisoned in the penitentiary for not less than two years nor more than ten years.

Section 2. That Section 3457 of the Code of Alabama of 1923, be and the same is hereby amended so as to read as follows: 3457 (6401) (4410) (3914) (4117) (3561) (21) ACCEPTING BRIBE BY SUCH OFFICER:—Any legislative, executive or judicial officer or any deputy officer, or the Clerk, agent or employee of any such legislative, executive or judicial officer who corruptly accepts or agrees to accept any gift, gratuity, or other thing of value, or any promise to make any gift, or to do any act beneficial to such officer, under an agreement, or with an understanding that his act,

vote, opinion, decision or judgment is to be given in any particular manner, or upon any particular side of any cause, question, or proceeding, which is pending or may be by law brought before him in his official capacity: or that he is to make any particular appointment in his official capacity, must, on conviction, be imprisoned in the penitentiary for not less than two years nor more than ten years.

Section 3. That all laws and parts of laws, general local or special in conflict with the provisions hereof are hereby expressly repealed.

Section 4. That this act shall go into effect ninety days after the final adjournment of the Legislature by which it is passed.

Approved June 15, 1935.

No. 141)

(H. 417—Miller

### AN ACT

To Promote Public Health, Safety, Morals And General Welfare By Prohibiting The Promotion, Conduct Or Participation In Marathon Dance Contests, Walkathon Contests And Similar Physical Endurance Contests Either Of Walking, Dancing, Riding Or Running; And To Provide For And Fix A Penalty For The Violation Of This Act.

*Be it enacted by the Legislature of Alabama:*

Section 1. That it shall be unlawful for any person, firm, association or corporation to promote, advertise or conduct any marathon dance contests, walkathon contests and/or similar endurance contests, by whatever name called, of walking, dancing, riding or running, and it shall be unlawful for any person to participate in any marathon dance contest, walkathon contest and/or similar physical endurance contest by walking, dancing, riding or running continuing or intended to continue for a period of more than eight consecutive hours, whether or not an admission is charged and/or a prize awarded, and it shall be unlawful for any person to participate in more than one such contest or performance within any period of forty-eight hours.

Section 2. Any persons violating the provisions of this Act shall be guilty of a misdemeanor and shall be punishable by imprisonment in the county jail for not less than thirty days nor more than ninety days, or by a fine of not less than Fifty Dollars (\$50.00), nor more than Five Hundred Dollars (\$500.00), or by both such fine and imprisonment in the discretion of the court.

Section 3. Each and every day that any person, firm or corporation shall continue such a contest or engage in any such activities and/or each day's participation in such contest or advertisement of the same or do any act in violation of the provisions of this



Act shall be and constitute a distinct and separate offense.

Section 4. That all laws and parts of laws in conflict with this Act be and the same are hereby repealed, and this Act shall take effect from and after its passage, the public welfare requiring it.

Approved June 15, 1935.

No. 144)

(H. 314—Hodges.

### AN ACT

To provide for elections in the several counties to be ordered by the governing bodies thereof upon petition in writing of a number of qualified electors of said respective counties, to determine whether county funds shall be appropriated to assist in financing a program of agriculture and farm home life in co-operation with the Extension Service created under the Smith-Lever Act; and to provide for the manner of conducting said election; and to provide for the appropriation of County funds for said purposes.

*Be it enacted by the Legislature of Alabama:*

Section 1. That upon a petition, hereinafter provided for, signed by ten per cent or more of the qualified electors in said county in this State to the County Board of Revenue, County Commissioners or Court of County Commissioners or other governing body having similar jurisdiction, said County Board of Revenue and Court of County Commissioners or other governing body having similar jurisdiction shall order an election to determine whether or not there shall be appropriated and made available by said governing body in said county annually for each fiscal year certain funds for aiding in financing a program for agriculture and farm home life, including county farm and home demonstration work, in the said county in cooperation with the Extension Service created under an Act of Congress of the United States approved May 8, 1914, and generally known as the Smith-Lever Act for extension work in agriculture and home economics.

Section 2. The petition referred to in Section 1. shall be addressed to and filed with the County Board of Revenue, Court of County Commissioners or other governing body of the county and shall contain a statement of the amount of such proposed annual appropriation, the number of years that the said appropriation is to be continued and the purpose for which the said appropriation is proposed to be made and be signed by ten per cent or more of the qualified electors in said county, the petition is to be filed with the clerk of the said board or court or governing body.

Section 3. That at the next regular session, special session or adjourned session of the County Board of Revenue, Court of County Commissioners or other governing body of said county after the filing of the petition hereinbefore provided for the said board, court

or governing body shall call the election provided for in this Act and fix a date therefor, which must in no event be more than thirty days from the said session. Publication of the notices of said election to be held under the provision of this Act shall be made in some newspaper published in said county by publication once a week for three successive weeks. If there is no newspaper published in the said county the said publication shall be made by posting the notice hereinafter provided for at the Court House door of said county and in two other public places in the county for the same length of time. Said publication and/or notices shall show the amount of such proposed annual appropriation, the number of years it is proposed to be continued, the purposes for which said appropriation is proposed to be made, and the date of the said election.

Section 4. The said election shall be held on the day fixed by said order, and shall be conducted, and the election officers therefor provided, either with or without pay, and the result canvassed and declared as provided by Sections 10209- 10210 of the Code of 1923 insofar as the provisions of the said sections are applicable hereto. The said election may be contested as is provided by Section 10213 of the Code of 1923, insofar as the said Section is applicable hereto.

Section 5. That all persons who are at the time of such election qualified electors, of the county where such election is held, under the Laws and Constitution of Alabama then in existence, shall be qualified to participate therein.

Section 6. That when an election is to be held in any county under the provisions of this Act the Board of Revenue or County Commissioners or other bodies having similar jurisdiction in the county, shall provide the necessary number of ballots, polling lists, tally sheets, ballot boxes, booths, and instructions for holding said election, and all other necessary and proper supplies for holding said election, and the sheriff shall see that the same are delivered to the managers before the day of election. The ballots used in said election shall have printed at the top of each ballot, the amount of such proposed appropriation, the time it is proposed to be continued, and the purposes for which the appropriation is to be used, and directly underneath in plain type shall be printed on different lines the words, "For Proposed Appropriation," "Against Proposed Appropriation," and a blank must be left directly to the left of each line thereof, and the voters in favor of the proposed appropriation will make a cross mark directly to the left of the line "For Proposed Appropriation" and the voters not in favor of the proposed appropriation will make a cross mark directly to the left of the line "Against Proposed Appropriation." If an election is held in any county as provided for in this Act and the majority of the electors should vote against the proposed appropriation then it

shall be entirely legal and proper to hold another election any time after the expiration of twelve months using the same procedure as herein provided. Provided that at any time after the lapse of one year from the time of holding an election and the voting of an appropriation for County Farm and Home Demonstration Work under the provisions of this Act, the Court of County Commissioners or like governing body of such county may order an election to vote on the question of continuing such appropriation. If a majority of the votes cast at such election are against continuing the annual appropriation for County and Home Demonstration Work, then the Court of County Commissioners or like governing body of the County may discontinue such appropriation at such time as they deem for the best interest of such County. Such election shall be held in all respects as provided for in this Act.

Section 7. That if it appears as the result of such election that a majority of those voting in said election have voted for such appropriation the Board of Revenue, Court of County Commissioners or other governing body having similar jurisdiction in the county at the next regular session, special session, or adjourned session of said Board of Revenue, Court of County Commissioners or other governing body shall and they are hereby authorized, empowered and instructed to set aside, appropriate and make available from the general fund of the county the sum or sums as specified in said petition and election and shall set aside, appropriate and make available such sum annually thereafter for the number of years specified in said petition and election. The funds appropriated, set aside and made available in any county in accordance with this Act shall be used in cooperation with the Extension Service created under an Act of Congress of the United States approved May 8, 1914, and generally known as the Smith-Lever Act for extension work in agriculture and home economics, for the exclusive purpose of assisting in employing county farm and home demonstration agents, and in paying any and all bills and other items in developing and carrying out a comprehensive, countywide program for improving the agriculture and farm life of the county.

Section 8. That in those counties where an election has been held under this Act and a sum or sums appropriated under this Act supplemental sums may be empowered and authorized in the same manner and by the same procedure as herein provided for the appropriation or appropriations provided for in Sections 1 to 7, inclusive, of this Act. The County Board of Revenue, Court of County Commissioners or other governing body of like jurisdiction are hereby empowered and authorized to appropriate such additional sum or sums under Subdivision 18 of Section 6755 of the Code of Alabama of 1923, and this latter provision is merely cumulative.

Section 9. That this Act shall become effective upon its approval by the Governor but it shall not repeal or in any manner affect paragraph 18 of Section 6755 of the Code of 1923 but this Act nieriely provides an alternative method for authorizing, empowering and directing the County Board of Revenue and Court of County Commissioners or other governing body of the county having similar jurisdiction.

Section 10. That if any part of this Act is declared unconstitutional it shall not affect any other part of the Act not declared unconstitutional.

Section 11. All laws and parts of laws in conflict with this Act except as otherwise specified in this Act are hereby repealed.

Approved June 21, 1935.

No. 145)

(H. 329—Coleman

### AN ACT

Providing For An Excise Tax On All Oleomargarine Containing Any Fat And/Or Oil Ingredient Other Than Any Of The Following Fats And/Or Oils, Namely: Cottonseed Oil, Peanut Oil, Corn Oil, Soy Bean Oil, Oleo Oil From Cattle, Oleo Stock From Cattle, Oleo Stearine From Cattle, Neutral Lard From Hogs, Or Milk Fat: Providing For The Placing Of Stamps Evidencing Payment Of Said Tax And Providing Offenses, Fines And Punishment.

*Be it enacted by the Legislature of Alabama:*

Section 1. There is hereby imposed an excise tax of ten cents per pound on all oleomargarine sold, offered or exposed for sale, or exchanged in the State of Alabama, containing any fat and/or oil ingredient other than any of the following fats and/or oils: cottonseed oil, peanut oil, corn oil, soy bean oil, oleo oil from cattle, oleo stock from cattle, oleo stearine from cattle, neutral lard from hogs, or milk fat. Such excise tax shall be in the form of a revenue stamp in such denominations as will best carry out the provisions of the law. Said stamps shall be properly safeguarded as to their manufacture, preservation and distribution and shall be in the charge of the State Tax Commission.

Section 2. The State Tax Commission is hereby empowered to promulgate such rules and regulations as are consistent with the provisions of this Act.

Section 3. Any person violating any of the provisions of this Act, or any of the rules or regulations promulgated by the State Tax Commission for the purpose of carrying out its provisions, shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than twenty-five (\$25.00) dollars nor more than two hundred (\$200.00) dollars, or by confinement in any county jail not to exceed two months, or by both such fines and imprisonment.

Section 4. All moneys derived from the sale of revenue stamps hereunder shall be paid into the State Treasury for the use of the State General Fund. There is hereby appropriated from the State General Fund the sum of One thousand (\$1,000.00) Dollars, which shall be available upon order of the State Tax Commission, to pay the cost of printing the necessary stamps provided for in this Act.

Approved June 15, 1935.

No. 146)

(H. 422—Chichester.

## AN ACT

To regulate all actions, now pending or hereafter instituted, during the life of this Act, whether at law or in equity, wherein recovery is sought on any indebtedness, in whole or in part, then or theretofore secured by any mortgage or other lien on real estate, or then or theretofore payable under any contract of sale of real estate.

PREAMBLE. WHEREAS, the severe financial and economic depression existing for several years next past has resulted in extremely low prices for the products of the farms and the factories, a great amount of unemployment, an almost complete lack of credit for farmers, business men and property owners and a general and extreme stagnation of business, agriculture and industry; and,

WHEREAS, many owners of real property, by reason of said conditions, are unable, and it is believed, will for some time, be unable to meet all payments as they come due of taxes, interest and principal of mortgages on their properties and are, therefore, threatened with loss of such properties through mortgage foreclosure and judicial sales thereof; and,

WHEREAS, many such properties have been and are being bid in at mortgage foreclosure and execution sales for prices much below what is believed to be their real values and often for much less than the mortgage or judgment indebtedness, thus entailing deficiency judgments against the mortgage and judgment debtors; and,

WHEREAS, the inherent and fundamental purpose of our Government is to safeguard the public and promote the general welfare of the people; and,

WHEREAS, under existing conditions and foreclosure of many real estate mortgages in the manner now provided would prevent fair, open and competitive bidding in the manner now contemplated by law; and,

WHEREAS, during such emergency, in order to safeguard the vital interests of the people of this State, and in the public interest and general welfare, there is pressing necessity for legislative intervention by the enactment of this Act by the Legislature of the State of Alabama, in pursuance of the State's continuing and dominant protective police power; therefore:

*Be it enacted by the Legislature of Alabama:*

Section 1. That the expression "contract of sale of real estate" as used in this Act shall include (without limiting the same thereto) contracts relating to real estate commonly called "lease sale contracts," "Bonds for title," "vendor's lien" and other liens.

Section 2. That all actions at law now pending or hereafter instituted, during the life of this Act, wherein recovery is sought

on any indebtedness, in whole or in part, then secured by any mortgage or other lien on real estate executed contemporaneously with the creation of the original indebtedness, or then payable under any contract of sale of real estate executed contemporaneously with the original indebtedness, must, on motion of defendant, be stayed by the court until said mortgage or other lien or contract of sale has been foreclosed, or if not sooner foreclosed, during the life of this act.

Section 3. That in all actions at law now pending or hereafter instituted during the life of this Act, wherein, recovery is sought on any indebtedness, in whole or in part, then or theretofore, secured by any mortgage or other lien on real estate executed contemporaneously with the creating of the original indebtedness or then payable under any contract of sale of real estate, the defendant, in addition to any other defenses thereto, may by plea, set off against said indebtedness an amount equal to the fair market value of the said real estate covered by said mortgage or other lien or contract of sale whether said mortgage or other lien or contract of sale may have been foreclosed or not, said value to be determined by a court, or by a jury, if a jury be demanded by either party; but in no case shall any such set off or credit so determined by the court or the jury be allowed to exceed the amount of the said indebtedness; which said indebtedness shall include (without limiting the same thereto) principal, interest and a reasonable attorney's fee if the instrument or instruments sued on provide for the payment of the same.

Section 4. That in any action at law now pending or hereafter instituted during the life of this Act, wherein recovery is sought on any indebtedness, in whole or in part then or theretofore secured by any mortgage or other lien on real estate executed contemporaneously with the creation of the original indebtedness, or then or theretofore payable under any contract of sale of real estate which mortgage, or other lien or contract of sale has been foreclosed either before or after the institution of said suit, the defendant in such suit, in addition to any other defenses thereto, may, by plea allege, in substance, that the property which secured said debt did not upon foreclosure sale bring its fair and reasonable value at the foreclosure sale and that the evidence of the debt is entitled to be credited with the fair and reasonable value, and an issue must be made upon said plea under the direction of the Court.

Section 5. That on trial of the issues made under said plea, if the Court or Jury as the case may be, determine from the evidence that the property did not bring its fair value at foreclosure, then the Court or jury as the case may be, must also find from the evidence the fair and reasonable market value of said real estate covered by said mortgage, lien or contract of sale at the time of

such foreclosure, and the defendant shall be entitled to have credited on said indebtedness the said fair and reasonable market value of said real estate as so determined; but in no case shall any such credit be allowed to exceed the amount of the said indebtedness; which said indebtedness shall include (without limiting the same thereto) principal, interest, interest and reasonable attorney's fee if the instrument or instruments sued on provide for the payment of the same.

Section 6. That in any action or cause in equity now pending or hereafter instituted during the life of this Act wherein is sought, on the foreclosure of any mortgage or other lien on real estate or any contract of sale of real estate, a recovery on any indebtedness, in whole or in part, then secured by such mortgage or other lien or contract of sale of real estate, executed contemporaneously with the creating of the original indebtedness any person or party liable, or sought to be charged, on any such indebtedness, in whole or in part, or whose interest is sought to be affected thereby, shall be entitled, on petition therefor filed at any time before confirmation of such foreclosure sale, to have credited on such indebtedness an amount equal to the fair and reasonable market value of the said real estate covered by such mortgage, lien or contract of sale as of the date of such foreclosure sale, and any such person or party so petitioning the court may, upon written demand filed with such petition, or within five (5) days thereafter, be entitled to have a trial by jury to determine the amount of such fair and reasonable market value of the said real estate and there shall be credited on said indebtedness the said fair and reasonable market value of said real estate as so determined; but in no such case shall the credit be allowed to exceed the amount of the indebtedness ascertained by such mortgage, lien or contract of sale; which said indebtedness shall include (without limiting the same thereto) principal, interest and reasonable attorney's fee if the instrument or instruments sued on provide for the payment of the same.

Section 7. That this act shall be liberally construed in all of its provisions, with a view to carrying out the purposes and intents thereof.

Section 8. That if any section, clause or provision of this Act is held to be unconstitutional or void, such holding shall not invalidate any other section, clause or provision of this Act, that is not in itself, unconstitutional or void.

Section 9. That this Act, as aforesaid, is declared to be an emergency measure to safeguard the vital interests of the State, and in the public interest and general welfare, as aforesaid, and shall take effect and be in force from and after its approval by the Governor or its otherwise becoming a law of the State of Alabama until and including the first day of October, 1939, or until the

necessity therefor shall, by act of the legislature, be sooner determined and declared not to exist.

Section 10. That when the defendant in such actions avails himself, or herself, of the benefits of the foregoing sections, either party may by appropriate motion have the cause removed to the Equity Court for further proceedings as provided for in said sections. But any verdict of the jury shall be advisory as in other jury trials in Courts of Equity.

Approved June 24, 1935.

No. 147)

(H. 463—McPhaul

### AN ACT

To amend the Code of Laws for the State of Alabama, known as the "Agricultural Code of Alabama," of 1927, adopted as the Code of Laws for the State of Alabama, prepared in accordance with the provisions of the Act approved February 18, 1927, (H. 273 Goode) by the Act of the Legislature approved August 24, 1927, and which pertains to Agriculture and Industries and relating subjects which are administered by, concern or relate to the duties of the Commissioner of Agriculture and Industries or the State Board of Agriculture as follows: Amending Sections 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, and 345 of Article Thirty pertaining to Markets Act; and to repeal all laws and parts of laws in conflict with this Act.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 334 of Article Thirty of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 334. PURPOSES OF ARTICLE.—The purposes of this Article are to promote, protect and develop the agricultural interests of this state, to regulate and control the marketing of agricultural products, to provide for the fixing and promulgation of standards for any or all containers for agricultural products which shall be the official standards for this State, and to further prescribe the powers and duties of the State Board of Agriculture and the Commissioner relative thereto.

Section 2. That Section 335 of Article Thirty of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 335. DEFINITIONS.—For the purposes of this Article the word "Commissioner" shall mean the Commissioner of Agriculture and Industries; the word "Board" shall mean the State Board of Agriculture;" and the word "person" shall mean any individual, partnership, association corporation or two or more individuals having a joint or common interest.

Section 3. That Section 336 of Article Thirty of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 336;—POWERS OF COMMISSIONER AND BOARD.—The Commissioner shall have



the power to: (a) Inspect and determine the grade and condition of agricultural products both at shipping points and receiving centers within this State, and provide for the issuance of certificates as to grade or condition of such products; (b) Inspect, test and examine the containers for agricultural products; (c) Investigate, collect and disseminate data and statistics as to the location, quantities and time when available of agricultural products produced, stored or held within this State, information as to the cost and facilities for the transportation, storage and distribution of such products and acquire and disseminate information as to market prices of such products in the markets of the State and other markets; (d) Acquire and use such information and data as may be necessary and useful in making recommendations to the public service commission to avoid and prevent discrimination in the transportation of such products of this State and to secure fair and reasonable rates for such transportation; (e) Investigate as to the needs of terminal and other distributing facilities for agricultural products and cooperate and advise with corporations, municipalities and other persons concerning the establishment of such facilities; (f) Obtain and disseminate such information and data relating to the preceding subjects from outside this State as may be practicable and of value to producers and consumers within this State; (g) Investigate the conduct and methods of exchange and boards of trade within this State for the purchase and sale of agricultural products. The Board shall have the power to: (a) Determine and adopt standards for any and all agricultural products as to grade, classification, quality and/or condition of such products and such other qualifications as may be of value for the purposes of this Article; (b) Determine and adopt standards for any and all containers for agricultural products and to provide for and require the marking of such containers; (c) Include in or exclude from such standards any agricultural products as may appear for the promotion of the purposes of this Article and to change such standards as and when such may seem best; (d) Make any and all reasonable rules and regulations necessary to carrying out the objects and purposes of this Article, not inconsistent with the law.

Section 4. That Section 337 of Article Thirty of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 337. **DATE STANDARDS BECOME EFFECTIVE.**—The Commissioner shall specify the date or dates when the Standard or any alterations or modifications of such standards as may be adopted shall become effective and shall give public notice not less than thirty days in advance of such date or dates by such means as he deems proper, and he is hereby empowered and authorized to employ reasonable methods

for diffusing information concerning the standards that may be fixed by the Board for any agricultural product.

Section 5. That Section 338 of Article Thirty of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows:—Section 338. **FEDERAL STANDARDS MAY BE ADOPTED.**—The Commissioner with the Advice and counsel of the State Board of Agriculture is authorized to fix and promulgate as the official standards for this State for any agricultural product the standard for such product which may have been promulgated or announced therefor under the authority of the Congress of the United States, and in carrying out the provisions of this Article the said Commissioner is authorized to cooperate with the United States or any department thereof in accomplishing the matters and things provided for herein.

Section 6. That section 339 of Article Thirty of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 339. **DESIGNATION AND LICENSE OF INSPECTORS.**—The Commissioner is hereby authorized to designate any competent employee or agent of the Department of Agriculture and Industries, or United States Department of Agriculture, and to license any competent person and to charge and collect a reasonable fee for such license, to inspect, classify or grade agricultural products for the purposes of this law and to revoke such licenses at his discretion. Such inspectors shall be stationed at such places, furnish such certificates and information to the Commissioner and interested parties and perform such other duties pertaining to the provisions of this Article as the Commissioner may require. The Commissioner, with the approval of the Board, may fix, assess and collect, or cause to be collected, fees for such services. Any person other than those properly designated under the provisions of this Article, who shall issue certificates of inspection, classification or grade or represents himself to be such an inspector, shall be guilty of a misdemeanor and punished as provided in section 345 hereof.

Section 7. That section 340 of Article Thirty of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 340. **MARKETING IN BULK OR UNGRADED.**—The provisions of this Article shall apply only when agricultural products are sold in sacks, bags, crates, boxes, packages or other containers, and shall not prevent the sale of any such products in bulk. Provided, that for the purposes of this Article, The Board may adopt and promulgate reasonable rules and regulations, to be enforced by the Commissioner, fixing requirements as to the marking or labelling and terms used in the marketing of agricultural products when marketed in bulk or otherwise as uninspected, unclassified or ungraded agricultural products.

Section 8. That section 341 of Article Thirty of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 341. **CERTIFICATE AS EVIDENCE.**—A certificate of inspection, classification or grade by a duly designated person, issued under this Article, and all such certificates issued under authority of the Congress of the United States relating to the grade, classification, Quality or condition of agricultural products shall be accepted in any Court of this State as prima facie evidence of the true grade, classification, quality or condition of such agricultural product at the time of inspection.

Section 9. That section 342 of Article Thirty of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 9. **RULES AND REGULATIONS.**—The Board is hereby authorized to promulgate all general rules and regulations necessary and practicable to the carrying out of the purposes of this Article by the Commissioner. The Commissioner, with the approval of the Board, may from cooperative arrangements with the State Experiment Station or other proper agency relating to the subject matter as referred to under the "Declaration of the Field of Work" as defined in the Agricultural Code of Alabama, of 1927, for the promotion and development of agricultural products and purposes of this Article and to provide for the payment of the expenses thereof, under rules and regulations of the Board, from the Agricultural Fund.

Section 10. That section 343 of Article Thirty of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 343. **BOND OF INSPECTORS.**—The Commissioner may require any employee or agent and any inspector licensed under this Article to execute and file with him a good and sufficient bond, payable to the State, in such sum, not exceeding One Thousand (\$1,000.00) Dollars and with such surety or sureties, as he may prescribe, conditioned upon the faithful performance of such employee, agent or licensed inspector of his duties as such employee, agent or licensed inspector. Any person injured by the failure of such employee, agent or licensed inspector faithfully to perform such duties shall be entitled to sue on such bond in his own name in any court of competent jurisdiction for the recovery of such damages as he may have sustained by reason of such failure.

Section 11. That section 344 of Article Thirty of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 344.—**MISDEMEANOR: IMPROPER GRADING.**—Any employee or agent employed under this Article, or any inspector licensed hereunder who shall knowingly inspect, grade or classify improperly any agricul-

tural product or shall knowingly give incorrect certificate of grade, classification, quality or condition or shall accept money or other consideration directly or indirectly for any incorrect or improper performance of duty and any person who shall improperly influence or attempt to improperly influence any such agent, employee or licensed inspector in the performance of his duty, shall be guilty of a misdemeanor.

Section 12. That section 345 of Article Thirty of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended so as to read as follows: Section 345. VIOLATIONS.—PENALTY. Whenever standards for agricultural products have been promulgated under this Article, no person thereafter shall in any manner class, grade, represent, describe or refer to any agricultural product for which such standards have been fixed, in the preparation for or offering for sale or transportation, sale, distribution, transportation or otherwise marketing thereof, as being of any other grade or classification than that fixed therefor under this Article except as otherwise provided in this Article. After standards for containers for any agricultural products have been promulgated no person shall use in the marketing in any wise of such product any other container or containers than those fixed as standards. In the marketing of any agricultural product or the container thereof shall be marked or labelled in accordance with the provisions of this Article and the rules and regulations promulgated by the Board with reference thereto. Any person violating any provisions of this Article shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than Five Hundred (\$500.00) Dollars or be imprisoned for not more than six months or both. All Funds accruing from the operation of this law including fines and fees or otherwise shall be paid into the "Agricultural Fund" for expenditure for the purposes as provided for herein.

Section 13. GENERAL PROVISIONS OF CODE MADE APPLICABLE TO THIS ACT.—That the provisions of Article 1, Article 23 and Article 43 of the "Agricultural Code of Alabama," of 1927, and such other general provisions as are contained in said Code and applicable to the whole of said Code and not hereby repealed, shall be applicable to the provisions of this Act when not inconsistent or in conflict with the provisions of this Act.

Section 14. REPEAL OF CONFLICTING LAWS.—That all laws and parts of laws, general, special or private, in conflict with the terms and provisions of this Act are hereby repealed.

Section 15. EFFECTIVE DATE.—This Act shall take effect and become operative immediately upon its passage and approval by the Governor.

Approved June 15, 1935.

No. 148)

(H. 486—Parish (Henry)

## AN ACT

To amend Section 397 of the Agricultural Code of Alabama of 1927.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 397 of the Agricultural Code of Alabama of 1927, be and the same hereby is amended to read as follows: Section 397. The Commissioner and his duly authorized agents or employes shall have full power and authority to inspect public warehouses, to audit the books thereof and to check the articles or goods stored with the records or receipts, and to exercise such other power relative to public warehouses as is necessary to ascertain whether or not the business is conducted in such a manner as to protect the interest of the persons who are storing, or may store, articles in such warehouse. The inspectors, when instructed by the Commissioner, shall make sworn reports to the Commissioner of their findings, within ten days after the completion of the work assigned, who shall hold and keep same in the records of his office. Such reports, when sworn to, shall be public records and shall be prima facie evidence of what they charge.

Approved June 15, 1935.

No. 150)

(S. 138—Browder

## AN ACT

To Amend Section 197 of the 1927 School Code of Alabama:—

*Be it enacted by the Legislature of Alabama:*

That Section 197 of the School Code of Alabama be and the same is hereby amended to read as follows:—

Section 1. Before assuming any of the duties of the office, the City Superintendent of Schools and the City Treasurer or designated Treasurer of the City Board of Education, must give bond in an amount to be fixed by the State Superintendent of Education in a reputable surety company authorized to do business in Alabama conditioned upon the faithful performance of the duties of his office and upon the accounting and paying over to the proper authority of all monies coming into his hands. Such bond shall be approved by the State Superintendent of Education. A certified copy of the bonds of the City Superintendent of Schools and of the City Treasurer or designated Treasurer of the City Board of Education, shall be placed on file in the office of the State Department of Education. No public funds shall be paid to the City Treasurer or designated Treasurer of the City Board of Education, prior to the mak-

ing and approval of the bonds of the City Superintendent of Schools and City Treasurer or designated Treasurer of the City Board of Education and prior to the filing of such bonds in the office of the State Department of Education.

Section 2. All laws or parts of laws in conflict herewith are hereby repealed.

Section 3. This act shall take effect immediately upon its passage and approval by the Governor.

Approved June 27, 1935.

No. 151)

(S. 144—Tucker

### AN ACT

To declare Education an essential function of State government and to prohibit discrimination against the schools and educational institutions and teachers and administrators therein, in the administration of the Budget and Financial Control Act, Approved September 27, 1932, and of any other law of the State of Alabama.

*Be it enacted by the Legislature of Alabama:*

Section 1. The maintenance and operation of the public schools, secondary schools, normal schools, and institutions of higher learning in the State of Alabama, is hereby declared to be an essential function of State government of equal importance with the other essential functions of State government such as the legislative, executive and judicial departments; and the payment of the salaries of the teachers and administrative officers of said schools and institutions is as essential as the payment of the salary of any officer of the State.

Section 2. In the administration of that certain Act known as the Budget and Financial Control Act, Approved September 27, 1932, and of any other law of the State of Alabama, no discrimination in prorating, allotment, or payment of appropriations shall be made against any of said schools or institutions in favor of any other department, board, institution, commission, or other State agency, or in favor of any officer or agent of the State of Alabama, whether on a salary fixed by law or not, it being the purpose of this Act to establish, in the allotment, proration and/or payment of appropriations for the public schools and educational institutions of the State, identity and equality of treatment, and equal priority, with the other essential departments and officers of the State Government.

Section 3. All laws and parts of laws in conflict herewith are hereby repealed.

Approved June 27, 1935.

No. 152)

(H. 99—Welch.

## AN ACT

To amend Section 8371 of the Code of Alabama of 1923 so as to allow the parties to a policy contract to agree to an extension of time of payment of a second or subsequent premium and for lapsing the policy on failure to carry out such written agreement.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 8371 of the Code of Alabama of 1923 be amended so as to read: 8371 (4579) (2602) CONTRACTS OF INSURANCE TO BE IN PLAIN LANGUAGE FREE FROM AMBIGUITY; REBATES ON PREMIUMS PROHIBITED; PENALTY. No life nor any other insurance company nor any agent thereof shall make any contract of insurance or agreement as to policy contract other than is plainly expressed in the policy issued thereon, nor shall any such company or agent pay or allow or offer to pay or allow for inducement to insurance any rebate of premiums payable on the policy nor shall any particular policy holder of the same class be allowed any advantage in the dividends or other benefits to accrue thereon or any value, consideration or inducement whatever not expressed in the policy contract of insurance; provided that the parties to any policy of life insurance now or hereafter issued shall have the right at any time to mutually agree in writing for an extension of time in which to pay a second or subsequent premium on said policy upon condition that the failure to pay said amount agreed upon at the time agreed shall lapse the policy as of the date mutually agreed upon in said writing; provided further that no such agreement shall impair any right to extended or paid up insurance which the insured may have under said policy nor any right to have the premiums, any part thereof, or the amount payable for such extension charged against the policy under the terms of the policy. No such agreement need be attached to or made a part of the insurance policy so affected.

Section 2. That all laws and parts of laws in conflict herewith are hereby repealed.

Section 3. This Act shall take effect immediately on its due passage, the public welfare requiring it.

Approved June 27, 1935.

No. 154)

(H. 482—Lee (Monroe))

## AN ACT

To authorize any county, incorporated city or town in the State of Alabama, subject to the limitations herein stated, to acquire by Gift or Purchase, to construct, to reconstruct, to improve, to better or to extend and maintain and operate Causeways, Tunnels, Viaducts, Bridges and other Crossings, Highways, Parks, Parkways, Airports, Docks, Piers, Wharves, Seaport or River Terminals, Hospitals, Public Markets, Tennis Courts, Swimming Pools, Golf Courses, Stadiums, Armories, Auditoriums, and other Public Buildings of all kinds, Incinerator Plants, Water Systems, Sewer Systems, Gas or Electric Heat, Light or Power Systems for Public and Private uses, Cold Storage plants, cooling plants, sterilization plants, warehouses, graneries, and any other plants works, machinery or equipment useful for the preservation or preparation of agricultural products for market or use and for the conversion of agricultural products into usable and marketable condition and for the conversion of the same into usable and marketable products, to authorize the issuance of Revenue Anticipation Bonds payable solely from the revenues of such undertakings to finance the same, providing for the payment of such bonds and the rights and remedies of the holders thereof and for the conditions and other provisions under which the same may be issued; and to authorize the fixing and collection of Rates, Fees, Tolls, Rents and other charges for the Services, Facilities and Commodities afforded by such undertaking.

*Be it enacted by the Legislature of Alabama:*

Section 1. SHORT TITLE OF ACT. This act may be cited as the "Municipal Revenue Bond Act of 1935."

Section 2. DEFINITIONS. Wherever used in this act, unless a different meaning clearly appears in the context: (a) The term "undertaking" shall include all of the following revenue-producing undertakings or any combination of two or more of such undertakings, whether now existing or hereafter acquired or constructed: (1) Causeways, tunnels, viaducts, bridges and other crossings, highways, parks, parkways, airports, docks, piers, wharves, seaport or river terminals hospitals, public markets, tennis courts, swimming pools, golf courses, stadiums, armories, auditoriums, and other public buildings of all kinds, incinerator plants; (2) Systems, plants, works, instrumentalities and properties used or useful in connection with the obtaining of a water supply and the collection, treatment and disposal of water for public and private uses; in connection with the collection, treatment and disposal of sewerage, waste and storm water; in connection with the generation, production, transmission and distribution of gas or electric energy for lighting, heating and power for public and private uses; together with all parts of any such undertaking and all appurtenances thereto including lands, easements, rights of way, contract rights, franchises, approaches, connections, dams, reservoirs, sewage disposal plants, intercepting sewers, trunk, connection and other sewer and



water mains, filtration works, pumping stations and equipment. (3) Cold storage plants, cooling plants, sterilization plants, warehouses, graneries and any other plants, works, machinery or equipment useful for the preservation or preparation of agricultural products for market or use and for the conversion of agricultural products into usable and marketable condition and for the conversion of the same into usable and marketable products. (b) The term "municipality" shall include any county incorporated city or town in the State. (c) The term "governing body" shall mean the board or body in which the general legislative powers of a municipality are vested. Provided, however, this Act shall not authorize any county, city or town to construct an undertaking provided for in subsection 3 of Section 2 as amended in any city or town or in any portion of a county which is then adequately served by a like undertaking or undertaking performing the proposed service and provided further that nothing herein contained shall authorize the construction or operation of an undertaking for the purpose of manufacturing ice for sale at retail or for retail to the public.

Section 3. ADDITIONAL, POWERS. In addition to the powers which it may now have, any municipality shall have power under this act: (a) to acquire by gift or purchase, to construct, to reconstruct, to improve, to better or to extend any undertaking, within or without the municipality or partially within or partially without the municipality and to acquire by gift or purchase, (b) to operate and maintain any undertaking for its own use and for the use of public and private consumers and users within and without the territorial boundaries of the municipality, (c) to prescribe and collect, rates, fees, tolls, or charges for the services, facilities, and commodities furnished by such undertaking and in anticipation of the collection of such rates, fees, tolls, or charges to issue revenue anticipation bonds to finance in whole or in part the cost of the acquisitions, construction, reconstruction, improvement, betterment or extension of any undertaking and (d) to pledge to the punctual payment of said bonds and interest thereon all or any part of the gross or net revenues of such undertaking (including the revenues of improvements, betterments, or extensions thereto thereafter constructed or acquired, as well as the revenues of existing systems, plants, works, instrumentalities, and properties of the undertaking so improved, bettered or extended) or of any part of such undertaking. The governing body in determining such cost may include all costs and estimated costs of the issuance of said bonds, all engineering, inspection, fiscal and legal expenses, and interest which it is estimated will accrue during the construction period and for six months thereafter on money borrowed or which it is estimated will be borrowed pursuant to this act.

Section 4. **AUTHORIZATION OF UNDERTAKING AND REVENUE ANTICIPATION BONDS.** The acquisition, construction, reconstruction, improvement, betterment or extension of any undertaking may be authorized under this act and in anticipation of the revenues to be derived from such undertaking, bonds may be authorized to be issued under this act to provide funds for such purpose or purposes by resolution or resolutions of the governing body which may be adopted at a regular or special meeting and at the same meeting at which they are introduced by a majority of the members of the governing body present at such meetings, if a quorum is present.

Section 5. **BOND PROVISIONS.** Revenue anticipation bonds may be issued under this act in one or more series, may bear such date or dates, may mature at such time or times not exceeding fifty years from their respective dates, may bear interest at such rate or rates not exceeding six per centum per annum, payable semi-annually, may be payable in such medium of payment, at such place or places, may carry such registration privileges, may be subject to such terms of redemption, with or without premium, may be executed in such manner, may contain such terms, covenants and conditions, may be in such form, either coupon or registered, as such resolution or subsequent resolutions may provide. Said bonds shall be sold at not less than par. Said bonds may be sold at private sale to the United States of America or any agency or instrumentality thereof, or any corporation owned or controlled by the United States of America. Unless sold to the United States of America or any agency or instrumentality thereof, or any corporation owned, or controlled by the United States of America, said bonds shall be sold at public sale in the manner required by the Municipal Bond Code. All bonds and coupons attached thereto issued under this act bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding obligations notwithstanding that before the delivery and payment thereof such officers whose signatures appear thereon shall have ceased to be officers of the municipality issuing the same. Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the governing body may determine, may be issued to the purchaser or purchasers of bonds to be issued under this act. Said bonds and interim receipts or certificates shall be fully negotiable within the meaning of and for all the purposes of the negotiable instruments law.

Section 6. **COVENANTS IN BOND RESOLUTIONS.** Any resolution or resolutions authorizing the issuance of revenue anticipations bonds under this act may contain covenants as to (a) the purpose or purposes to which the proceeds of sale of said bonds may be applied and to the use of and disposition thereof, (b) the

use and disposition of the revenue of the undertaking in anticipation of which said bonds are to be issued, including the creation and maintenance of reserves, (c) the issuance of other or additional bonds payable from the revenue of said undertaking, (c) to pay from the general funds of the municipality to the account or accounts of the undertaking the reasonable value for furnishing the municipality or any of its departments with the services, facilities and commodities of said undertaking, (d) the operation and maintenance of such undertaking, (e) the insurance to be carried thereon and the use and disposition of insurance moneys, (f) books of account and the inspection and audit thereof and (g) the terms and conditions upon which the holders of the revenue anticipation bonds authorized to be issued under this act by said resolution or resolutions, or any proportion of them, or any trustee therefor, shall be entitled to the appointment of a receiver, which receiver may enter and take possession of such undertaking, operate and maintain the same, prescribe rates, fees, tolls, or charges, and collect, receive and apply all revenue thereafter arising therefrom in the same manner as the municipality itself might do. The provisions of this act and of any such resolution or resolutions shall be a contract with every holder of said bonds, and the duties of the municipality and the governing body and the officers of the municipality under this act and under any such resolution or resolutions, shall be enforceable by any bondholder by mandamus or other appropriate suit, action or proceeding at law or in equity. The Circuit Court shall have jurisdiction of any suit, action or proceeding by any bondholder or bondholders or trustee therefor.

**Section 7. VALIDITY OF BONDS.** Any resolution or resolutions authorizing said bonds may provide that the bonds shall contain a recital that they are issued pursuant to this act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

**Section 8. LIEN OF BONDS.** All revenue anticipation bonds of the same series issued under this act shall, subject to prior and superior rights, have a prior and paramount lien on the revenue of the undertaking in anticipation of which said bonds have been issued over and ahead of all bonds payable from said revenue which may be subsequently issued and over and ahead of any claims of obligations against said revenue subsequently incurred. All bonds of the same series shall be equally and ratably secured without priority or preference by reason of number, date of bonds, of sale, of execution or of delivery, by a lien on said revenue in accordance with the provisions of this act, and the resolution or resolutions authorizing said bonds.

**Section 9. MUNICIPALITY NOT LIABLE ON BONDS.** Revenue anticipation bonds issued under this act shall not be a

debt of the municipality within the meaning of the Constitution and the municipality shall not be liable thereon nor shall they be payable out of any funds other than the revenue obtained therefrom anything herein contained to the contrary notwithstanding; and every bond issued under this act shall contain a recital to that effect.

Section 10. TAX LEVY TO PAY BONDS PROHIBITED. No holder or holders of any bonds issued under this act shall ever have the right to compel any exercise of the taxing power of the municipality or the payment of any funds other than the revenue from such undertaking to pay said bonds or the interest thereon; and every bond issued under this act shall contain a recital to that effect.

Section 11. UNDERTAKING AND BONDS EXEMPT FROM TAXATION. So long as the municipality shall own or possess any undertaking the property and revenue of such undertaking shall be exempt from all Taxation. Bonds issued under this act and the income therefrom shall be exempt from all taxation.

Section 12. UNDERTAKING TO BE SELF-SUPPORTING. The governing body shall prescribe and collect reasonable rates, fees, tolls, rents or charges for the services, facilities and commodities of any undertaking for the acquisition, construction, reconstruction, improvement, betterment or extension of which, revenue anticipation bonds are issued under this act, and shall revise such rates, fees, tolls, rents or charges from time to time whenever necessary so that such undertakings shall be and always remain self-supporting. The rates, fees, tolls, rents or charges prescribed shall be such as will produce revenue at least sufficient (a) to pay when due all bonds and interest thereon for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor, and (b) to provide for all expenses of operation and maintenance of such undertaking, including reserves therefor.

Section 13. Sewer Charges prescribed by the governing body under this act may be based upon either the consumption of water on premises connected with such facilities, making due allowances for commercial use of water, the number and kind of plumbing fixtures connected with such facilities, or the number of persons served by such facilities, or may be determined by the governing body on any other equitable basis.

Section 14. When required by law, the approval of the State Board of Health with respect to water and sewer systems shall be obtained. No bonds or obligations of any municipality authorized under this Act shall be issued and/or sold until consent to the issuance and sale thereof shall have been given by the Public Works Board of Alabama or in the event no such body is in exist-

ence at the time, by the Alabama Public Service Commission, to be evidenced by resolution or order under seal of such body granting such consent. Such consent shall be granted only after a public hearing and after a petition requesting such consent has been duly filed by such municipality with the secretary of such Public Works Board more than five days before such public hearing. Such petition shall specify the plan or program of the municipality and the uses to which it is proposed to put the proceeds of such issue and such other matters as are necessary fully to advise such Public Works Board of the nature of the corporate purpose in furtherance of which such issue is proposed and said petition shall include such other information as may be required by the rules of such Public Works Board. Such Public Works Board shall grant such consent only after it finds that such issue and/or sale serves some public need, and is in the public interest. It shall be unlawful for the municipality to use the proceeds of any such issue and/or sale contrary to the plan and purposes presented to such Public Works Board in obtaining its consent thereto. The municipality applying for such consent is authorized to pay such fees as shall be lawfully assessed against it by the body to which it applies for such consent.

Section 15. CONSTRUCTION OF ACT. The powers conferred by this Act shall be in addition and supplemental to and not in substitution for, and the limitations imposed by this act shall not affect, the powers conferred by any other general, special or local law. Bonds may be issued under this act without regard to the provisions of any other law, general, special, or local, except as herein expressly provided.

Section 16. SEPARABILITY OF PROVISIONS. If any provision of this act or the application of such provision to any person, body, undertaking or circumstance shall be held invalid, the remainder of this act or the application of such provision to person, bodies, undertakings, or circumstances other than those as to which it shall have been held invalid, shall not be affected thereby.

Section 17. TIME OF TAKING EFFECT. This act shall be effective immediately after its passage and approval.

Approved June 26, 1935.

No. 155)

(H. 509—Walker.

## AN ACT

To authorize Municipal Corporations, Counties, Towns, Cities, Public Power Districts or Improvement Authorities owning and/or operating or authorized to acquire and/or operate, electric generation, transmission and/or distribution systems, to enter contracts with certain governmental agencies for the acquisition of such systems and/or for the purchase and sale of electric energy, providing for the covenants, terms, and conditions which may be stipulated or agreed to in any such contract, and validating any such contracts heretofore entered and any such covenants, terms, and conditions heretofore stipulated or agreed to.

*Be it enacted by the Legislature of Alabama:*

Section 1. Any Municipal Corporation, County, City, Town, Power District or Improvement Authority within the State, hereinafter called "Municipality", owning and/or operating or heretofore or hereafter authorized to acquire and/or operate any electric generation, transmission, and/or distribution system, is hereby authorized to contract with any federal agency, or authority, or with any corporation owned by the United States for the acquisition of any such system or part thereof and/or the purchase or sale of electric energy, and in any such contract to stipulate and agree to such covenants, terms, and conditions as the governing body or board of the municipality may deem appropriate, including but without limitation, covenants, terms, and conditions in respect to the resale rates, financial and accounting methods, services, operation and maintenance practices and the manner of disposing of the revenues of any such system, and to comply therewith, and any such contract heretofore entered, and any such covenants, terms, or conditions heretofore stipulated or agreed to are hereby expressly validated.

Section 2. Nothing herein contained shall be construed as a restriction or limitation upon any authority, power or right which any municipality may have in the absence hereof; this Act shall be construed as cumulative and shall be in addition and supplemental to any power, authority, or right conferred by any other law.

Section 3. This Act is remedial in nature and any power, authority or right hereby conferred shall be liberally construed, and to this end every municipality shall have the power, authority, and right, in addition to those expressly conferred hereby, to do all things necessary or convenient in carrying out the purposes hereof.

Section 4. If any section, sentence, clause or provision of this Act or any application thereof shall be held invalid, the validity of any other section, sentence, clause or provision hereof or of any other application shall not be affected.

Section 5. This Act shall become effective immediately upon its passage and approval.

Approved June 26, 1935.

No. 159)

(H. 2—Robertson

### AN ACT

To further amend Section 9008 of the Code of Alabama of 1923 as amended by an Act approved April 19, 1933.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That Section 9008 of the Code of Alabama of 1923, as amended by an act approved April 19, 1933, be and the same is hereby further amended to read as follows:— 9008 — A mortgage of unplanted crops of agricultural products, executed on or after the first day of January of the year in which such crops are grown, conveys the legal title thereto, in all respects as if such crops were already planted; but all mortgages of crops to be grown in any year except the year in which the mortgage is executed, and all contracts to execute such mortgages, shall be absolutely null and void. Provided, however, that any mortgage of unplanted crops executed on or after the first day of September of any year shall convey the legal title to all crops planted and grown subsequent to the execution of the mortgage and prior to the first day of January of the year immediately following and shall convey the legal title to all crops planted during the year immediately following, if so stated in the mortgage.

Section 2. All laws and parts of laws in conflict with this Act are hereby repealed.

Section 3. This act shall take effect and be in force from and after the date of its approval by the Governor.

Approved July 8, 1935.

No. 160)

(H. 92—Robertson

### AN ACT

To Amend Section 196 of the 1927 School Code of Alabama.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That Section 196 of the 1927 School Code of Alabama be and the same is hereby amended to read as follows:— The City Treasurer shall be custodian of the school funds of the city, but in their discretion, the City Board of Education may elect any individual other than the City Treasurer to be the custodian of all monies to which the City Board of Education is en-

titled by law, or which may come into its possession, said person so selected to be known and designated as the Treasurer of the City Board of Education. The City Treasurer or designated Treasurer of the City Board of Education shall receive and hold all monies and shall pay out such City School Funds only on the written order of the City Superintendent of Schools, approved by the Chairman of the City Board of Education, and shall keep such records and accounts of such funds as shall be required.

Section 2. All laws and parts of laws in conflict herewith are hereby repealed.

Section 3. This act shall take effect immediately upon its passage and approval by the Governor.

Approved July 17, 1935.

No. 161)

H. 139—Street)

### AN ACT

To define sedition and prescribe the punishment thereof.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That the word "sedition" as used in this Act shall mean: (a) The advocating, advising or teaching by word of mouth or in writing the overthrow or subversion by force or violence of the government of the United States, or of this State, or of any political sub-division thereof; (b) The printing, publishing, editing, issuing, or the knowingly circulating, selling, distributing or public displaying of any book, paper, document, cut, cartoon, or written or printed matter in any form advocating, advising or teaching that the government of the United States, or of this State, or of any political sub-division thereof should be overthrown or subverted by force or violence; (c) The assembling by two or more persons for the purpose of advocating, advising or teaching the duty, necessity or propriety of the overthrow or subversion by force or violence of the government of the United States, or of this State, or of any political sub-division thereof; (d) The organizing or helping to organize or becoming a member of any assembly, society or group whose policies or purposes are the overthrow or subversion by force or violence of the government of the United States, or of this State, or of any political sub-division thereof;

Section 2. The commission of any act of sedition as herein defined shall be and constitute a misdemeanor and any person shall upon conviction be punished by imprisonment or sentenced to hard labor for not more than twelve months, or by fine of not more than one thousand dollars, one or both.



Section 3. The possession by any person of more than one copy of any book, paper, document, cut, cartoon or written or printed paper in any form advocating, advising or teaching that the government of the United States, or of this State, or of any political sub-division thereof should be overthrown or subverted by force or violence, shall be prima facie evidence that such person is guilty of the commission of the act of sedition as defined in Section 1 hereof.

Section 4. This Act shall be cumulative to and not in repeal of the statutes in relation to criminal anarchy as they appear in Sections 3208 to 3211, both inclusive, of the Code of Alabama.

Section 5. Should any paragraph, sentence, or clause of this Act be declared unconstitutional by any competent authority, the same shall not affect the remainder of said Act, but every portion of said Act not in itself invalid shall remain in full force and effect.

Section 6. This Act shall take effect upon its passage and approval by the Governor.

This Act became a law effective July 31, 1935 under Section 125 of the Constitution.

No. 163)

(H. 311—Hamner.

### AN ACT

Declaring an emergency concerning the production, distribution and sale of milk, creating a milk control board, defining producers, distributors and dealers, providing for the regulation of the price of milk as affecting producers, producer-distributors, distributors, consumers, and milk dealers, providing for the licensing, the collection of license fees from and control of milk producers, distributors, producer-distributors, and milk dealers, authorizing the Board created hereunder to promulgate regulations and rules for the Administration of its functions, providing for a review of the Board's rulings, and fixing penalties.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That it is hereby declared that milk is a necessary article of food for human consumption; that the production and maintenance of an adequate supply of healthful milk of proper chemical and physical content, free from contamination, is vital to the public health and welfare, and that the production, transportation, processing, storage, distribution and sale of milk, in the State of Alabama, is an industry affecting the public health and interest; that unfair, unjust, destructive and demoralizing trade practices have been and are now being carried on in the production, marketing, sale, processing and the distribution of milk, which constitute a constant menace to the health and welfare of the inhabitants of this State and tends to undermine sanitary regulations and standards of content and purity, however effectual such sanitary regula-

tions may be attempted to be enforced, that health regulations alone are insufficient to prevent disturbances in the milk industry which threatens to destroy and seriously impair the future supply of milk and to safeguard the consuming public from future inadequacy of a supply of this necessary commodity. That it is the policy of this State to promote, foster and encourage the intelligent production and orderly marketing of commodities necessary to its citizens, including milk, to eliminate speculation and waste and to make the distribution of necessary commodities between the producer and consumer as direct as can be efficiently and economically done and to stabilize the marketing of such commodities, including milk, through the organization and operation of Producers and Producer-Distributors Cooperative Associations. That the normal process of producing and marketing milk has come to be a cooperative industry of vast importance to the State and of vital interest to the consuming public, which ought to be safeguarded and protected in the public interest. That the present economic depression, through which we have been and are now passing, and the disparity of the prices received by producers and producer-distributors and the prices which such producers and producer-distributors are forced to pay for articles purchased, has broken down the orderly exchange of commodities produced and marketed by them for commodities purchased by them, has seriously impaired the assets of producers and producer-distributors and dairy assets supporting the credit structure of this State and has created an emergency which the Federal Congress has recognized and has attempted to meet by Legislation, granting the Secretary of Agriculture certain powers relative to the production, sale and distribution of agricultural products including milk. Actual experience has shown that the exercise of State authority, and State regulation in addition to Federal regulation, is necessary to protect the public welfare and health of this State and provide a constant and adequate supply of milk to the public. That the necessity of pure and wholesome milk as an article of food, that the unfair, unjust, destructive and demoralizing trade practices which have been and are now being carried on in the production, production and distribution, sale, processing and distribution of milk, the serious disturbances which have taken place in industry, the maladjustment of prices of farm commodities, with prices which farmers are compelled to pay, and the inability of Federal Regulations to function in this economic emergency, without the cooperatoin of the State Agencies, has created an emergency in this State which required immediate correction. The foregoing statement of facts, policy and application of this law are hereby declared a matter of legislative determination.

Section 2. DEFINITIONS. As used in this Act unless otherwise expressly stated, or unless the context or subject matter

otherwise requires: "State Board" means the State Agency, created by this Act to be known as "State Milk Control Board." "Person" means any person, firm, corporation or association, or partnership. "Milk Dealer" means any person who purchases milk for purposes other than consumption or handles or sells milk. Each corporation which if a natural person would be a milk dealer within the meaning of this Act and any subsidiary and affiliate of such corporation similarly engaged, shall be deemed a milk dealer within the meaning of this definition. A hotel or restaurant which sells only milk consumed on the premises where sold, or a producer who delivers milk only to dealers or a person who buys milk only for processing purposes shall not be deemed a milk dealer. "Distributor" means a person who purchases, accepts or receives milk for the purpose of putting such milk into bottles or other unit containers in which the same is designed to be sold, or for the purpose of cooling, pasteurizing, standardizing or otherwise processing such milk for fluid consumption, or for the purpose of selling, jobbing or distributing such milk at wholesale or retail, or for any two or more such purposes. Said term, however, excludes all persons so purchasing, accepting or receiving milk for the purpose only of sale by such persons in one or more retail stores or in one or more places where such milk is sold to customers for consumption on the premises if such persons do not pasteurize, standardize or otherwise process such milk; and all persons hereinafter defined as producer-distributors. "Producer" means a person producing milk for commercial purposes, who operates under a permit from the State Board of Health or any County Board of Health. "Milk Shed" means any city, town or village or two or more cities and/or towns and/or villages and surrounding territory designated by the State Board as a natural marketing area. "Processor" means a person who buys milk for the purpose or purposes of processing such milk into products or by-products of milk but not for resale as fluid milk. "Milk" means the lacteal secretion of a dairy animal or animals, and includes such secretion when cooled, pasteurized, standardized, or otherwise processed, with a view to being sold as milk, and also cream, butter-milk and skimmed milk sold or intended to be sold as such for human food; said term excludes the lacteal secretion of a dairy animal or animals sold or intended to be sold for any other purpose. "Consumer" means any person other than milk dealers who purchase milk for fluid consumption. "Store" means any establishment where milk is sold directly to the consumer, other than for consumption upon the premises where sold. "Producer-Distributor" means a producer who distributes milk which he produces direct to stores or consumers. "Wholesale-Producer" means a producer who sells his milk in bulk to distributor for resale as fluid milk.

Section 3. "BOARD". There is hereby created a State Milk Control Board to consist of five members. The members of said Board shall be appointed by the Governor of Alabama with the following qualifications: One "Wholesale-producer" One "Producer-distributor" One "Distributor" One "Consumer" One "Member." This person not to be engaged in the production, distribution and/or sale of milk in any form. All such members shall serve at the pleasure of the Governor and all or any one of such members shall be subject to be removed at any time at the will of the Governor of Alabama. Any and all vacancies whether arising from expiration of term, voluntary or involuntary retirement, or death in the Board shall be filled in the same manner as provided for each original respective appointment. The compensation of members of the State Board shall be fixed at (\$5.00) Five Dollars per day for each day actually engaged in the official functions of the Board, plus subsistence and necessary traveling expenses at the rate allowed other State employees.

Section 4. ATTORNEY GENERAL LEGAL ADVISOR: The Attorney General shall be the legal advisor of the State Milk Control Board in matters relating to the powers and duties of the Board. It shall be the duty of any County Solicitor, when requested by the Board, to investigate, institute, and prosecute all violations of the Milk Control Law, and the rules and regulations issued by the State Milk Control Board. He shall institute and prosecute all necessary actions and proceedings which the Board is authorized to bring to execute the Milk Control Law, and the rules and regulations of the Milk Control Board. The State Board may employ necessary assistance and legal representatives and council and fix and authorize their salary, wages or compensation, such persons shall serve at the will of the Board and may be removed by it at any time but, all expenditures under this Act shall be paid from the receipts hereunder provided for. And shall not exceed the revenue collected therefrom.

Section 5. DECLARATION OF MARKETING AREAS: As soon as possible after its creation, the Board shall designate Natural Marketing areas which shall constitute the respective Milk-Sheds of the State of Alabama, but the Board shall have the power at any time to designate new or additional Milk-Sheds, or it may at any time combine any two or more designated Milk-Sheds, as it may deem necessary or advisable to carry out the duties and functions of this Act. At any time after the Board shall have designated a Marketing area as a Milk-Shed, a majority of the Producers and distributors, both groups counted as one group, selling or marketing milk in such Milk-Shed, who operate under a permit from the State Board of Health or any County Board of Health of the State of Alabama, may petition the Board, by written petition signed by a majority of such producers and distributors, both

groups counted as one group, for the benefits and provisions of this Act. No objections shall be made as to the form of this petition. Immediately upon such petition being filed with the Board all provisions of this act shall apply in such Milk-Shed, and shall remain in force for the life of this Act. But no provisions of this Act shall apply in any part of the State of Alabama unless and until applied for by such producers and distributors as herein provided for.

**Section 6. GENERAL POWERS OF THE BOARD:** The Board is hereby vested with the powers, and it shall be its duty, to supervise and regulate the fluid milk industry of the State of Alabama, including the production, production-distribution, transportation, manufacture, storage, distribution, delivery, processing, and sale of milk in the State of Alabama, providing, however, that nothing contained in this Act shall be construed to abrogate or affect the status, force or operation of any provision of Public Health Laws or County Board of Health regulations, or municipal ordinances. To investigate all matters pertaining to the production, manufacture, production-distribution, processing, storage, transportation, and sale of milk and milk products in the State of Alabama. Said Board shall have the power to subpoena milk dealers and producers, their records, books and accounts and any other person from whom information may be desired or deemed necessary to carry out the purposes and intent of this Act, and may also issue commissions to take depositions of witnesses who are sick or absent from the State. Any duly designated employee of the Board may sign and issue subpoenas and may administer oath to witnesses and conduct hearings or investigations. Obedience to a subpoena issued by the Board or any person authorized and designated by the Board to issue said subpoenas shall be enforced by application to any Judge of the Circuit Court of the County in which said subpoena was issued or any County in which such person subpoenaed resides. It shall be the duty of the Board, upon application of any person affected thereby to act as mediator and arbitrator in any controversy or issue that may arise among or between producers and milk dealers as between themselves or that may arise between them as groups, and the findings and decision of the Board in all such matters shall be conclusively binding on the parties involved. The operation and effect of any provision of this Act conferring a General power shall not be impaired or qualified by the granting of this Act of a specific power or powers.

**Section 7. RULES AND ORDERS.** The Board may adopt and enforce all rules and all orders necessary to carry out the provision of this Act. Every rule or order shall be posted for public inspection in the main office of the State Milk Control Board and a copy filed in the office of the Board, excepting an order directed

only to a person or persons named therein which shall be served by personal delivery of a copy, or by mailing a copy in a sealed envelope with postage prepaid properly addressed to each person to whom such order is directed, or, in the case of a corporation to any officer or agent of the corporation upon whom a summons may be served in accordance with the provisions of the statutes of Alabama. The posting in the main office of the State Milk Control Board of any rules and of any order not required to be served and such filing in the office of the Board shall constitute due and sufficient notice to all persons affected by such rule or order. A rule when duly posted and filed as provided in this Act shall have the force and effect of law.

**Section 8. ENTRY, INSPECTION AND INVESTIGATION:** The Board or any person designated for that purpose by the Board, shall have access to and may enter at all reasonable hours all places where milk is produced, stored, bottled, processed, or manufactured, or where milk or milk products are being produced, bought, sold or handled, or where the books, papers, records or documents relative to such transactions are kept and shall have power to inspect and copy the same in any place within the State, and may administer oath and take testimony for the purpose of ascertaining facts which in the judgment of the Board are necessary to administer this Act, but any such information so derived shall be treated as confidential by the Board and shall be used by it only for the Administration of this Act and not for general public issue. Any member or employee of the Board and any person assisting the Board in the Administration of this Act, who shall divulge any information secured while in the employ of the Board in respect to the transaction, property, files, records or papers of the Board, or in respect to the business or mechanical, chemical or other industrial processes of any person, to any person other than members of the Board or the superior of any such employee of the Board, or when called upon to testify in any action or proceeding in any court, wherein the Board is not a party, shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1000.00).

**Section 9. LICENSES TO PRODUCERS, PRODUCER-DISTRIBUTORS, STORES AND DISTRIBUTORS:** In any Milk-Shed where the provisions of this Act once applies it shall be unlawful for any producer, producer-distributor, store, or distributor to produce, sell, buy, handle, or distribute milk unless such person be duly licensed as provided by this Act. It shall be unlawful for any such person to buy, sell, handle, or distribute milk which he knows or has reason to believe has been previously dealt with or handled in violation of any provision of this Act.

**Section 10. APPLICATION FOR LICENSE:** An applicant for a license to operate as milk dealer, producer, producer-dis-

tributor or store shall file an application upon a blank prepared under authority of the Board. An applicant shall state such facts concerning his circumstances and the nature of the business to be conducted as in the opinion of the Board are necessary for the Administration of this Act. Such application shall be accompanied by the license fee required to be paid. The Board may classify licenses and may issue licenses to milk dealers to carry on a certain designated kind of business only, or the same may be limited to a particular city or village or to a particular market or markets in the State, and may specify the place or places where milk may be received from producers. Each application for a license shall be in writing under oath, a certificate from the State or County Board of Health in the Milk-Shed where he desires to do business that he has and is complying with the health regulations of such Milk-Shed must accompany the application. Application shall be duly made within thirty days after this Act takes effect in any Milk-Shed by all milk dealers and producers then engaged in business in such Milk-Shed. The license year shall commence on the day this Act applies to any given Milk-Shed and end on the 31st day of December following. An application must be duly made at least thirty days before the commencement of the license year by all milk dealers then doing business in all Milk-Sheds where this Act applies. The license fees hereinafter fixed shall be reduced twenty-five per cent (25%) in the case of any license applied for, for each fully elapsed quarter of a calendar year prior to the issuance of such license under the provisions of this Act; provided, however, that no license fee for any period shall be less than twenty-five per cent (25%) of the total.

Section 11. LICENSE FEES: All persons required by this Act to be licensed shall pay a yearly license fee computed upon the following rates: STORES . . . . Two and One Half Dollars (\$2.50) each per year. Any person operating two or more stores shall obtain a license for each store and pay a license fee of (\$2.50) each per year on each store. PRODUCERS: An amount equal to Fifty cents (\$.50) per cow, dry or milking over two years old. Provided that each person firm or corporation shall be exempt from the payment of said license tax on 5 cows or less. For the purpose of determining the total amount of such producers fee the Board shall calculate same upon the largest number of cows in each producers herd or herds at any time during the license year and in the event any producer acquires or uses additional cows during the license year he shall pay an additional fee of Fifty Cents (\$.50) for each additional cow. PRODUCER-DISTRIBUTOR: Where a producer-distributor buys milk in addition to that produced by him, he shall pay a license fee as a producer on the amount he produces and as a distributor on the amount he buys. DISTRIBUTOR: Distributors, and Proces-

sors who handle less than fifty gallons per day—a license fee of Ten Dollars (\$10.00) per year. Distributors and Processors who handle more than fifty gallons per day but less than one hundred gallons per day—a license fee of Twenty-Five Dollars (\$25.00). Distributors and Processors who handle more than One Hundred gallons per day, but less than Five Hundred gallons per day—a license fee of Fifty Dollars (\$50.00). Distributors and Processors who handle more than five hundred gallons but less than One Thousand gallons per day—a license fee of One Hundred Dollars (\$100.00). Distributors and Processors who handle more than One Thousand gallons per day—a license fee of Two Hundred Fifty Dollars (\$250.00) per year. The Board may in its discretion reduce but not increase any of the above rates. The Board may, if it deems advisable, permit licensees to pay license fees in installments. Provided this act shall not apply to any producer who does not operate under permit from the State Board of Health or who does not produce milk primarily for commercial purposes.

Section 12. BONDS AND ENFORCEMENT: Each milk distributor buying milk from producers for resale or manufacture shall execute and file a bond, unless relieved therefrom as hereinafter provided. The bond shall be upon a form prescribed by the Board, shall be in the sum fixed by it, but not less than Two Thousand Dollars (\$2000.00), shall be executed by a surety company authorized to do business in this State, and shall be conditioned for the prompt payment of all amounts as and when due producers for milk sold by them to such licensee, during the license year. The bond shall be approved by the Board. Upon default by the distributor in any conditions of the bond, if there is reason to believe that the distributor owes for milk purchased from producers, the Board shall give reasonable notice to file verified claims and may if it deems it advisable, fix a reasonable time within which such claims must be filed. The Board shall examine claims so filed and by certificate determine the amounts due upon them. The Board may bring an action upon the bond and for the purposes of such action the certificate determining the amounts due shall be Prima Facie evidence of the facts therein stated. If the recovery upon the bond is not sufficient to pay all claims filed and established as finally determined, then the amount recovered shall be prorated among claimants. All distributors shall from time to time, when required by the Board, make and file a verified statement of disbursements during a period to be prescribed by the Board, said statement shall also list the names and addresses of the supplying producers. If it appears from such statement or from facts otherwise ascertained by the Board that the security afforded to producers selling milk to such licensee by the bond does not adequately protect such producers, the Board may require such licensee to give additional bond in a sum



to be determined by the Board, but not more than double the value of the maximum amount of milk purchased from producers in any one month, and not exceeding in any event Ten Thousand Dollars (\$10,000.00). The provision of this Act relative to milk dealers buying milk from producers for resale, shall apply also to a milk dealer buying milk from a cooperative association or buying milk from another milk dealer, whenever, in the judgment of the Board, protection by bond or otherwise is necessary or desirable to protect the interests of producers. If the applicant for a license under this section be a natural person or a domestic corporation, the Board may, if satisfied from an investigation of the financial condition of the applicant that the applicant is solvent and possessed of sufficient assets to reasonably assure compensation to probable creditors, exempt for such time or period as it may deem advisable such person or corporation, by order from the provisions of this section requiring the filing of a bond. The Board may require, in lieu of bond, as a condition precedent to relieving such person or corporation from filing a surety bond, that cash be deposited with a bank or trust company, or bonds of the United States or State of Alabama be deposited with the Board, under such terms as will in its opinion afford producers the protection intended by this section. Bonds for the license year commencing when the Act applies and for subsequent license years, shall be filed with the application.

**Section 13. GRANTING AND REVOKING LICENSES:** No license shall be granted to a person not engaged in business as a milk dealer, distributor or producer at the time of taking effect of this Act except for the continuation of a now existing business, and no license shall be granted to authorize the extension of an existing business by the operation of an additional plant or other new or additional facility, unless the Board is satisfied that the applicant is qualified by character, general fitness, experience, financial responsibility and equipment to properly conduct the proposed business; that the issuance of the license will not tend to promote a destructive or demoralizing competition in a market already adequately served, and that the issuance of the license is in the public interest. The Board may decline to grant or renew a license or may suspend or revoke a license already granted, upon due notice and opportunity of hearing to the applicant or licensee, when the Board after a hearing has become convinced: (a) That a milk dealer or distributor has rejected, without reasonable cause, any milk purchased or has rejected without a reasonable cause or reasonable advance notice, milk delivered in ordinary continuance of a previous course of dealing, except where contract has been lawfully terminated. (b) Or that the milk dealer or distributor or a producer has failed to account and make payment without reasonable cause, for any milk purchased. (c) Or

that the milk dealer or distributor or producer has committed any act injurious to the public health, public welfare, or to trade or commerce in demoralization of the price structure of pure milk to such an extent as to interfere with an ample supply thereof for the inhabitants of the State affected by this act which is hereby declared to be injurious to the public health, public welfare and to trade and commerce and evidence of a course of conduct on the part of the licensee tending to such demoralization shall be construed to be prima facie evidence of a violation of this section.

(d) Or that the milk dealer or distributor is insolvent or has made a general assignment for the benefit of creditors or has been adjudged a bankrupt or where a money judgment has been secured against him, upon which an execution has been returned wholly or partly unsatisfied. (e) Or that the milk dealer or distributor has continued in a course of dealing of such a nature as to satisfy the Board of his inability or unwillingness properly to conduct the business of receiving or selling milk or to satisfy the Board of his intent to deceive or defraud producers or consumers. (f) Or that the milk dealer or distributor or producer, has been a party to a combination to fix prices, contrary to law. A cooperative marketing association of dairymen organized under, or operated pursuant to the provisions of Article 20, or 21, or amendments thereto, for cooperative marketing associations and engaged in making collective sales or marketing for its members or shareholders shall not be deemed or construed to be a conspiracy or combination in restraint of trade or an illegal monopoly nor shall the contracts, agreements, arrangements or combinations heretofore or hereafter made by such association, or the members, officers or directors thereof, in making such collective sales and marketing and prescribing the terms and conditions thereof, be deemed or construed to be conspiracies or to be injurious to public welfare, trade or commerce, if otherwise authorized by such chapter or law. (g) Or that milk dealers, or producers or distributors have failed either to keep records or furnish the Statements or information required by the Board. (h) Or where it is shown that any statement upon which the license was issued is or was false or misleading in any particular. (i) Or where the licensee has violated any of the provisions of this Act. (j) Or where the licensee has been duly required to give a bond or an additional bond and has failed to do so. (k) Or where the required permit from the local health officer has terminated, suspended or has revoked, by said Board or where licensee has failed to pay his license fee or any part thereof when due. A license revoked for non-payment of license fee shall only be reinstated upon; payment of all the amount remaining due plus a penalty of ten per cent (10%) of the yearly fee. The Board may grant or renew a license or may decline to suspend or revoke a license conditionally upon the

agreement of the licensee or applicant to do or omit to do any designated act, but such condition must have some appropriate relation to the Administration of this Act.

Section 14. RECORDS: The Board may require licensees to keep the following records: (a) A record of all milk received, detailed as to source, and as to names and addresses of suppliers with butter fat test, prices paid, deductions or charges made. (b) A record of all milk sold classified as to grade, location and market outlet and size and style of container, with prices and amounts received therefor. (c) A record of the quantity of each milk product manufactured and quantity of milk and/or cream used in the manufacture of each product. Also the quality and value of milk products sold. (d) A record of wastage or loss of milk or butter fat. (e) A record of items of the spread or handling expense and profit or loss, represented by the difference between the price paid and the price received for all milk. (f) A record of all other transactions affecting the assets, liabilities, or net worth of the licensee. (g) Such other records, and information as the Board may deem necessary for the proper enforcement of this Act.

Section 15. REPORTS: Each licensee shall, from time to time, as required by rule or order of the Board, make and file a verified report on forms prescribed by the Board of all matters on account of which a record is required to be kept, together with such other information or facts as may be pertinent and material within the scope of the purpose and intent of this Act. Such report shall cover a period of time specified in the order.

Section 16. BOND OF FINANCIAL MEMBER OF BOARD: The member of the Board, or the person designated by it, authorized to accept or receive money paid or to be paid to the Board as provided by this Act shall, before he enters upon the discharge of his duties, execute and file a bond in such amount as may be fixed by the State Treasurer in the manner provided by law for public officers.

Section 17. DISPOSITION OF LICENSE FEES: The Board shall deposit to its credit all license fees and other money collected by the Board under this Act in a responsible bank located in the city where it has its principal office. On or before the tenth day of each month the Board shall pay over to the State Treasurer all license fees and all other moneys received by the Board during the preceding month, and all such money is hereby appropriated to defray the expense incurred in carrying out and enforcing the power and duties granted and imposed by this Act, which shall be paid out of the Treasury upon vouchers drawn by the Board, but the Board shall in no event issue vouchers in a total amount in excess of the sums of money paid by it into the Treasury. On or before the tenth day of each month the Board

shall make a verified and detailed report, acknowledged by a member having personal knowledge of the facts contained therein, of all receipts of the Board for the preceding month. All moneys paid by the Board into the State Treasury shall be placed in a special fund herein to be known as "State Milk Board Fund." Any balance remaining to the credit of the State Milk Board Fund at the end of the "emergency period", shall be transferred to the general revenue fund of the State. The State Milk Control Board shall have authority to borrow money and to pledge license fees for the payment thereof, in the carrying out of its duties in the administration of this Act.

Section 18. CONSTRUCTIONS, EXCEPTIONS AND LIMITATIONS: The license required by this Act shall be in addition to any or all other licenses required by this Act or otherwise required by law. This Act shall apply to every part of the State of Alabama, but shall not be construed to conflict with, or alter or repeal laws in force relating to the various Boards or departments of Health or any County or Municipality of this State, nor the sanitary code or codes in force in any county or municipality, or any amendment thereof duly adopted. If any clause, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof, directly involved in the controversy in which such judgment shall have been rendered. No provision of this Act shall apply or be construed to apply to foreign or interstate commerce, except insofar as the same may be effective pursuant to the United States Constitution and to the laws of the United States enacted pursuant thereto, provided that nothing in this Act shall be construed to apply to a producer supplying milk only to Processors who buy milk solely for processing purposes, who do not re-sell or dispose of same as raw or pasteurized fluid milk.

Section 19. ORDERS FIXING PRICES AND HANDLING CHARGES FOR MILK: The Board shall investigate what are reasonable costs and charges for producing, hauling, processing and/or other services performed in respect to milk, and what prices for milk in the several localities and markets of the State, and under various conditions, will best protect the milk industry in the State and insure a sufficient quantity of pure and wholesome milk to adults and minors in the State, and be most in the public interest. The Board shall take into consideration the balance between production and consumption of milk, the costs of production and distribution, and the purchasing power of the public. All meetings of the Board where the fixing of prices are involved shall be open to the public: 1. The Board, after making such investigations, may fix by official order: (a) The minimum prices

within the Milk-Shed to be paid by milk dealers; to producers and others for milk in its various grades and uses. The order of the Board with respect to the minimum prices to be paid to producers and others shall apply to the locality or zone in which the milk is produced, the markets in which milk so produced is sold, and may vary in different localities or zones or markets according to varying uses and different conditions. When, in the judgment of the Board, it is necessary or advisable, in order to promote a proper balance between the supply of and the demand for milk, to fix a lesser price for milk which is produced in excess of what is needed for fluid consumption, the Board may establish a quantity or quota applicable to each producer, or to certain classes of producers, or to producers producing for a certain market or markets. For that purpose the Board may require any milk dealer to supply necessary information about the quantities of milk received from producers during a specified period of time, and to determine a quota or quantity for each producer in accordance with rules to be adopted by the Board. The Board may determine the prices to be received by producers for milk within the quota and for milk in excess of it. Each order fixing prices or handling charges may classify milk by forms, classes, grades or use as the Board may deem advisable and may specify the minimum prices therefor. It is declared to be the Legislative intent that producers of milk in this State who sell their milk to dealers for shipment into or sale in another State where prices to producers are regulated by a state Board or other authority, with powers substantially similar to those conferred by this Act, shall receive the prices required to be paid for milk purchased from producers in such other states under similar conditions, for similar purposes and with proper allowance for transportation. It shall be unlawful for any milk dealer, except in any case where the Board shall otherwise determine, to pay a producer for milk to be sold in such other State a price lower than that required to be paid for milk purchased from producers in such other State under similar conditions and for similar purposes. (b) The minimum and/or maximum wholesale or retail prices to be charged for milk handled within the Milk-Shed for fluid consumption and wheresoever produced, when sold by milk dealers to consumers; by milk dealers to stores either for consumption on the premises or resale to consumers; by stores to consumers except for consumption on the premises where sold; by milk dealers to other milk dealers. A minimum wholesale or retail price to be charged for milk shall not be fixed higher than is necessary to cover the costs of ordinary efficient and economical milk dealers, including a reasonable return upon necessary investment. (c) The amount of handling and/or processing charges to be included in the price charged or paid by milk dealers for milk involved in transactions between dealers. Such

charges shall be classified according to the services performed or paid for by the dealer who sells the milk. 2. After the Board shall have fixed prices and/or handling charges to be charged or paid for milk in any form included in the definition of milk as used in this Act whether by class, grade or use, it shall be unlawful for a milk dealer, distributor, or producer to sell or buy or offer to sell or buy milk at any price less or more than such price or prices as shall be applicable to the particular transaction, and no method or device shall be lawful whereby milk is bought or sold or offered to be bought or sold at a price less or more than such price, or prices as shall be applicable to the particular transaction, whether by a discount or rebate, or free service, or advertising allowance, or a combined price for such milk together with another commodity or commodities, or service or services, which is less or more than the aggregate of the prices for the milk and the price or prices for such other commodity or commodities, or service or services when sold or offered for sale separately or otherwise. 3. The Board may upon its own motion or upon application from time to time, alter, revise or amend an official order theretofore made with respect to the prices and/or handling charges to be charged or paid for milk. Before making, revising or amending any order fixing the prices and/or handling charges to be charged or paid for milk, the Board shall give a hearing thereon to all parties interested upon reasonable notice to such interested parties and to the public of such hearing in such newspaper or newspapers as in the judgment of the Board shall afford sufficient notice and publicity. Such order of the Board may be reviewed by certiorari at the instance of any aggrieved person appearing of record at the hearing either in person or by personal representative and opposing the making of the order. 4. It is the intent of the legislature that the instant, whenever that may be, that the handling within the State by a milk dealer of milk produced outside of the State becomes a subject of regulation by the State, in the exercise of its police powers, the restrictions set forth in this Act respecting such milk so produced shall apply and the powers conferred by this Act shall attach.

Section 20. CERTIORARI TO REVIEW: Any person affected by any order or action of the Board, who deems himself aggrieved by any such order or act may within ten days after receiving notice of any such action or order, have such order, or action reviewed by a Writ of Certiorari by filing in the Circuit Court of the County wherein said action or order was taken or made, a verified petition setting out the specific order or action, or any part or parts thereof whereby said person deems himself aggrieved, and such court shall only consider such matters as contained in the petition. Upon such petition being so filed a Writ of Certiorari shall be issued out of such court directed to the Board,

requiring it to file with the Court the records upon which such action or order was made, and requiring said Board to file an answer to said petition within thirty days after service of said writ, and upon said Board filing said answer, issue shall be joined thereon without further pleading and the case considered on said petition, the record of said Board, and the answer filed by said Board, but no new or additional evidence shall be taken or heard by the Court. All such cases shall be given preferred settings, and shall be heard by the Court as speedily as possible after issue is joined. Such Court shall have the power to suspend or stay, such order or action by the Board complained of in such petition pending final hearing only upon petitioner in error executing a bond in such an amount as the Court deems reasonably sufficient to compensate or cover any loss or penalty occasioned by such stay or suspension of such order or action, said bond to be payable to said Board, and in the event the order, or ruling of the Board is affirmed execution shall be issued by said Court on said bond for such amount, if any, as the Court shall find necessary to compensate for damages sustained by such stay or suspension of such ruling or order with cost of the proceedings including a reasonable attorney's fee for counsel for the Board. Upon final hearing should the Court find that said ruling, order or action is unlawful or unreasonable within the meaning of this Act it shall have the power to vacate, or modify such order, ruling or action of the Board.

**Section 21. COOPERATIVE CORPORATIONS:** It is the intent of the legislature that no provision of this Act shall prevent, and no provision contained therein shall be deemed or construed to prevent a cooperative corporation, organized or operated under or subject to the provisions of Article 20, or 21, or amendments thereto, for Cooperative Marketing Associations and engaged in making collective sales or marketing of milk for the producers thereof, from blending the net proceeds of all its sales in various classes, and whether in fluid form or as manufactured products, both within and without the State, and paying its producers such blended price, with such deductions and for differentials as may be authorized under contract between such corporation and its producers, or from making collective sales of the milk of its members and/or other producers represented by it, at blended price based upon sales thereof in the various classes, and whether in fluid form or as manufactured products, both within and without the State, and which price is to be paid either directly to the producers or to the cooperative corporation. Nothing herein contained shall prevent any milk dealer from contracting for his milk with such cooperative corporation in such manner but all such contracts shall be upon the basis of the prices and handling charges fixed by the Board, with the result that the net

price received for milk by the cooperative corporation shall be commensurate with such prices and handling charges; and further provided that no milk dealer shall receive from a cooperative corporation directly or indirectly any discounts, rebates or compensation through rentals or otherwise for the purpose or with the effect of reducing the net cost to the dealer for milk purchased by or through a cooperative corporation. Also that no provision of this Act shall be deemed or construed to effect the contracts of such a cooperative corporation, with its producers nor to effect or abridge the rights and powers of such a corporation conferred by the provisions of Article 20, or 21, or amendments thereto, for cooperative marketing associations or any of its operations thereunder, except as in this Act otherwise provided.

**Section 22. COOPERATION WITH OTHER GOVERNMENTAL AGENCIES:** In order to secure a uniform system of milk control, the Board is hereby vested with power and it shall be its duty to confer and cooperate with the legally constituted authorities of other States and of the United States, including the Secretary of Agriculture of the United States, in the effectuation of the purposes of the Agricultural Adjustment Act and for the foregoing purposes, the Board shall have power to conduct joint hearings, issue joint or concurrent orders and exercise all its powers under this Act.

**Section 23. VIOLATION, PENALTIES:** Any person violating any provision of this Act, or any lawful order, rule, or regulation of the Board shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than Five Hundred dollars (\$500.00). Each day's violation of any such provision, order or regulation shall constitute a separate offence.

**Section 24. ADDITIONAL REMEDIES:** The Board may institute such action at law or in equity as may appear necessary to enforce compliance with any provisions of this Act, or any rules or orders of the Board, and in addition to any other remedy under this Act, the Board may apply for relief by injunction if necessary to protect the public interest without being compelled to allege or prove that an adequate remedy at law does not exist. Nor shall the Board be required to give or post bond in any action to which it is a party, whether upon appeal or otherwise.

**Section 25. APPLICATION OF ACT; EMERGENCY PERIOD:** The provisions of this Act shall apply during the emergency period as defined by this section. "Emergency period" means the period between the time this Act takes effect and June 30th, 1939. Any action or proceeding pending on June 30th, 1939, and any right of action or cause or prosecution then accrued or existent arising out of this Act or any violation of it may be prosecuted to final determination, and for such purposes the provisions of this Act shall be deemed to be in full force and effect.



Section 26. It hereby is adjudged and declared that existing conditions are such that this Act is necessary for the immediate preservation of the public peace, health and safety; and an emergency hereby is declared to exist, and this Act shall take effect and be in full force and effect from and after its passage and approval, provided the provisions of this Act shall not apply to canned milk.

Approved July 9, 1935.

No. 164)

(H. 336—Davis

### AN ACT

To amend Paragraph (10) of Section 9 of an Act approved April 9, 1931, entitled "An Act defining building and loan associations, providing for their incorporation, methods of doing business, taxation, regulation and supervision; prescribing the terms and conditions upon which foreign building and loan associations may carry on their business in Alabama; prescribing penalties for violation of the provisions of the Act; repealing Acts and parts of Acts in conflict herewith."

*Be it Enacted by the Legislature of Alabama:*

Section 1. That Paragraph (10) of Section 9 of an Act approved April 9, 1931, entitled "An Act defining building and loan associations, providing for their incorporation, methods of doing business, taxation, regulation and supervision; prescribing the terms and conditions upon which foreign building and loan associations may carry on their business in Alabama; prescribing penalties for violation of the provisions of the Act; repealing Acts and parts of Acts in conflict herewith," be and it is hereby amended so that said paragraph shall read as follows: (10)—Associations may provide in their by-laws for different rates of interest and premium on different classes of loans, such interest and premium in no case to exceed eight per cent per annum, and may charge and collect reasonable fees and charges in connection with their loans.

Approved July 8, 1935.

No. 165)

(H. 337—Davis

### AN ACT

To amend and extend Section 26 of an Act approved April 9, 1931, entitled "An Act defining building and loan associations, providing for their incorporation, methods of doing business, taxation, regulation and supervision; prescribing the terms and conditions upon which foreign building and loan associations may carry on their business in Alabama; prescribing penalties for violation of the provisions of the Act; repealing Acts and parts of Acts in conflict herewith."

*Be it Enacted by the Legislature of Alabama:*

Section I. That Section 26 of an Act approved April 9, 1931, entitled "An Act defining building and loan associations, pro-

viding for their incorporation, methods of doing business, taxation, regulation and supervision; prescribing the terms and conditions upon which foreign building and loan associations may carry on their business in Alabama; prescribing penalties for violation of the provisions of the Act; repealing Acts and parts of Acts in conflict herewith," be and the same is hereby amended and extended to read as follows: Section 26. MEMBERSHIP—WITHDRAWAL FEES—COMMISSION FOR SALE OF SHARES—ACTION FOR ALLEGED FRAUD. (1) No association authorized to do business in this State shall charge in excess of two per cent of the par of maturity value, or selling price, of each investment certificate or share issued, as a membership, withdrawal, cancellation fee, selling commission, or a fee under any other designation for joining or withdrawing from an Association, or for the sale of certificates or shares provided that this shall not apply to shares that may be issued hereafter by any existing Association under any fiscal agency contract or other contract for the sale of such shares in force and effect at the passage of this Act. Each Association doing business in this State charging such a fee shall cause same to be printed, stamped or written upon its application for shares, certificates or other securities issued by it, and upon the face of such certificate when issued the amount or rate of such fee, if any, charged thereon.

(2) No action, either in tort or contract, or of any nature whatsoever, shall be brought by any person against any Association because of alleged fraud, misrepresentation or deceit in the purchase of or subscription to stock, shares or membership in such Association more than three (3) years after the date of the contract of purchase or subscription, regardless of the time of discovery or the non-discovery of such alleged fraud, misrepresentation or deceit. The foregoing provision shall apply to all actions, whether the alleged fraud, misrepresentation or deceit occurred or the contract was made before or after the passage of this Act; provided, however, that no action shall be barred prior to twelve (12) months after the passage of this Act unless already barred under pre-existing law at the time this Act shall become effective, in which event nothing herein contained shall operate to extend the time for bringing such barred action. (3) All Acts or parts of Acts inconsistent with the provisions of this Act are hereby repealed. (4) If any section, clause or word of this Act, or the application thereof to any person, cooperation or circumstance is held to be invalid or unconstitutional by any court of competent or final jurisdiction, such judgment shall not affect, impair or invalidate the remainder of this Act, but shall be confined to its application to the section, clause or word directly involved in the controversy in which such judgment shall have been rendered.

(5) This Act shall take effect upon its approval by the Governor.

Approved July 8, 1935.

## AN ACT

To further regulate the business of building and loan associations and of other corporations carrying on the business of building and loan associations; to authorize all such corporations to transfer their mortgages and the indebtedness thereby secured for less than the amount due thereon to Home Owners' Loan Corporation, or to any other corporation created by or under Act of Congress; to provide for the relation and powers of such corporations to and with Federal savings and loan associations; to authorize the subscription by such corporations to the shares of Federal savings and loan associations; to facilitate the operation in the State of Alabama of Federal savings and loan associations and provide for the conversion of any building and loan association organized under the laws of Alabama into a Federal savings and loan association.

*Be it Enacted by the Legislature of Alabama:*

Section 1. Any building and loan association organized under the laws of this State may sell or transfer any mortgage or mortgages and the debt secured thereby held by it to the corporation organized under the Act of Congress known as the Home Owners' Loan Corporation or to any other corporation created by or under act of Congress for a consideration in cash or bonds issued by such Home Owners' Loan Corporation or any other corporation created by or under act of Congress in an amount less than the unpaid indebtedness secured by such mortgage or mortgages, and may execute such written transfers and agreements with respect thereto as may be required by such Home Owners' Loan Corporation or any corporation created by or under act of Congress. Such transfers shall be made only by such officer of such building and loan association as may be authorized to execute the same by a resolution of a majority of the Board of Directors or Executive Committee of such building and loan association, and such resolution and transfer shall set forth the amount of the unpaid principal and advances secured by the mortgage or mortgages so transferred and the amount of the consideration for such transfer. A certificate by the secretary, or like officer, of such building and loan association that such resolution has been adopted shall be conclusive evidence of the lawful adoption of such resolution in any suit at law or proceeding in equity in which the interest of the Home Owners' Loan Corporation or any other corporation created by or under act of Congress may be attached.

Section 2. Any foreign building and loan association holding a mortgage, or mortgages, on property located in this State may transfer any such mortgage or mortgages, and the debt secured thereby, to such Home Owners' Loan Corporation or any other corporation created by or under act of Congress for a consideration less than the amount remaining unpaid secured by such mortgage or mortgages, which consideration may be paid in cash or bonds

issued by such Home Owners' Loan Corporation or any other corporation created by or under act of Congress, provided the secretary of State or Commissioner of Building and Loan Associations, or other like officer of the State where such building and loan association is incorporated, shall certify that it is lawfully authorized to make such transfer under such condition.

Section 3. Except in case of transfer of a mortgage and the debt secured thereby to the Home Owners' Loan Corporation or any other corporation created by or under act of Congress no building and loan association organized under the laws of this State may sell, transfer, assign or pledge any mortgage held by it except as provided by statutes in force before the adoption of this Act.

Section 4. Any building and loan association or savings and loan association or company chartered under the laws of Alabama is authorized and empowered to occupy the same office or offices and use the same office facilities and employees as and in conjunction with a Federal savings and loan association upon such terms and conditions as may be agreed upon with the said Federal savings and loan association.

Section 5. That any building and loan association, savings and loan association or company, is authorized and empowered to subscribe to the shares of any Federal savings and loan association and may pay for such shares with cash or by transfer of assets of the subscribing association in accordance with provisions of the Home Owners' Loan Act of 1933, as amended, and as the same may hereafter be amended, and the Federal Home Loan Bank Act and amendments thereto, and the rules and regulations of the Federal Home Loan Bank Board and amendments and revisions thereto that may be promulgated.

Section 6. Whenever by the terms of any general or special laws of this State any restriction is imposed upon the conduct in this State of any building and loan association, savings and loan association or company, or any other association or corporation, the same shall not apply to the affairs or conduct of the business in this State of any Federal savings and loan association formed pursuant to an Act of Congress known as the Home Owners' Loan Act of 1933, as amended, and as the same may hereafter be amended, but such Federal savings and loan association may conduct business in this State according to the terms of said Home Owners' Loan Act of 1933, as amended, and as the same may hereafter be amended, and the Federal Home Loan Bank Act and amendments thereto and the rules and regulations from time to time fixed and prescribed by the Federal Home Loan Bank Board, and may do all things authorized or required by said Act of Congress and amendments thereto or by the rules and regulations as may be fixed and prescribed and the said Federal savings and loan asso-

cations shall not be deemed foreign corporations as defined by any general or special law of this State.

Section 7. Any building and loan association, savings and loan association or company, incorporated under the laws of Alabama, may convert itself into a Federal savings and loan association pursuant to an Act of Congress known as the Home Owners' Loan Act of 1933, as amended, and as the same may be hereafter amended, with the same force and effect as though originally incorporated under such Act of Congress, and the proceedings to effect such conversion shall be as follows: (a) At any regular meeting of the shareholders of any such association or company or at any special meeting of the shareholders of such association or company in either case called to consider such action and held in accordance with the laws governing such association or company, such shareholders by an affirmative vote of the majority of said shareholders present in person or by proxy, may authorize the conversion of such State-chartered association or company into a Federal savings and loan association. (b) A copy of the minutes of the proceedings of such meeting of the shareholders, verified by the affidavit of the president or vice-president and secretary of the association or company, shall be filed in the office of the building and loan department of Alabama within ten days after the date of such meeting. Such sworn copy of the proceedings of such meeting, when so filed, shall be presumptive proof of the holding and the action of such meeting. (c) Within three months after the date of such meeting of shareholders the State-chartered Association or company shall take such action, in the manner prescribed by the laws of the United States as shall make it a Federal savings and loan association and there shall thereupon be filed in the office of the building and loan department of Alabama, evidence of the issuance to such Federal savings and loan association by the Federal Home Loan Bank Board of a certificate showing the organization of such Federal savings and loan association, and upon such filing with the Department, the corporation shall cease to be a State-chartered association or company, but shall be converted into a Federal savings and loan association. (d) At the time said conversion becomes effective the said association shall cease to be supervised by this State, but shall continue as a body corporate converted pursuant to the provisions of the Home Owners' Loan Act of 1933, as amended, and as same may be hereafter amended, and subject to the examination and regulation provided in the said Act, as amended, and as same may be amended, and all the property of the said State-chartered association or company, including all its right, title and interest in and to all property of whatsoever kind, whether real, personal or mixed, and things in action, and every right, privilege, interest and asset of any conceivable value or benefit then exist-

ing, belonging or pertaining to it, or which would inure to it, shall immediately by act of law and without any conveyance or transfer, and without any further act or deed, be vested in and become the property of the Federal savings and loan association, which shall have, hold and enjoy the same in its own right as fully and to the same extent as the same was possessed, held and enjoyed by the State-chartered association or company; and the Federal savings and loan association as of the time of taking effect of such conversion shall succeed to all the rights, obligations and relations of the State-chartered association or company, and in any instance where any building and loan association, savings and loan association or company incorporated under the laws of Alabama, has made application to convert itself into a Federal savings and loan association and receives a Federal charter, or has heretofore made such application and received such Federal charter and a substantial compliance has been made with the Federal Statutes and regulations governing such conversion, the same is hereby validated. (e) All Acts or parts of Acts inconsistent with the provisions of this Act are hereby repealed. (f) If any section, clause or word of this Act, or the application thereof to any person, corporation or circumstance is held to be invalid or unconstitutional by any court of competent or final jurisdiction, such judgment shall not affect, impair or invalidate the remainder of this Act, but shall be confined to its application to the section, clause or word directly involved in the controversy in which such judgment shall have been rendered. (g) This Act shall take effect upon its approval by the Governor.

Approved July 8, 1935.

No. 167)

(H. 446—Taylor

## AN ACT

To enlarge the duties and powers of the State Docks Commission, to authorize it to make, promulgate and enforce reasonable rules and regulations pertaining to the Harbor and Port of Mobile, to make and collect suitable general and specific charges for services performed for or on behalf of shipping in or about said Harbor and Port and for the policing and general supervision of the same and of vessels and other water craft while in said Harbor and Port; to require said Commission to employ a Harbor Master and deputies to perform all the duties, render all the services and execute all powers hereby required of, or vested in it; to fix their salaries and qualifications and provide the manner in which they may be discharged.

*Be it Enacted by the Legislature of Alabama:*

Section 1. It is hereby made the duty of the State Docks Commission, of Alabama, to police and maintain general supervision of the Harbor and Port of Mobile and of all vessels in and

about the same; to protect all shipping while in said Harbor and Port from fires, snags, obstructions, collisions with rafts, barges, and all other watercraft; to facilitate the movement of all vessels and other water craft into and out of said Harbor and Port and from point to point therein, having due regard to the conformation of, and conditions surrounding the Inner Harbor extending from Beacon 40 up Mobile River in the dredged channel, and the dredged channel leading thereto.

Section 2. Said State Docks Commission, through its Harbor Master and Deputies, shall have full power to regulate shifting, removal, anchorage, berthage, and moorage, and the position of all vessels, rafts and other water craft while in said Harbor and Port and their movements into and out thereof and require vessels to accomodate other vessels as the circumstances warrant, and as the general convenience, safety and good order may require.

Section 3. It shall be the duty of the Harbor Master, with the assistance of his deputies, subject to the supervision of said State Docks Commission, to perform all the duties and render all the services imposed upon said commission by this Act and all similar duties and services pertaining to said Harbor and Port required by other laws to be done and performed by said Commission, and, subject to such supervision, to enforce all Rules and Regulations promulgated by said Commission pursuant to its police powers and its powers to maintain a general and special supervision over said Harbor and Port and all vessels and other water craft in or about said Harbor and Port as set forth in this or any other act pertaining thereto.

Section 4. The present Harbor Master and his two Deputies are confirmed in their respective offices, subject to removal by the said Commission only for the causes and in manner herein-after set forth, provided that they severally execute bond to said Commission for the faithful performance of their respective duties in form to be prescribed by the Attorney General of the State. No person shall be eligible for the office of Harbor Master or Deputy unless he is the holder of Federal Pilots License for Mobile Bay and tributaries, and also a State Pilots License issued by the State Docks Commission. The licenses now held by the Harbor Master and Deputies or that may hereafter be issued to their successor or successors or other deputies by said Commission shall cover duties to be performed in the Inner Harbor or Port of Mobile. Said Harbormaster in person or by Deputy shall board each vessel entering the Inner Harbor or Port extending from Beacon Forty Northwardly up into Mobile River to the limits of the jurisdiction of the Commission, while in port, to satisfy himself that such vessel is complying with the laws, Rules and Regulations pertaining to the Harbor and Port and to obtain data for

his record; and he shall keep a record of all vessels, barges and tug boats arriving and sailing from port in foreign and coastwise trade. All vacancies in either of said offices or other deputies shall be filled by said Commission; and it may appoint such other deputies as the business of the Port may require, all after written examination as to their qualifications under direction of said Commission. They are to be issued first a temporary State License and appointed on probation for a period of 90 days, and thereafter, if found to be competent, a permanent license shall be issued to them upon their giving bond as required of the present Harbormaster and deputy Harbormasters. Said Harbormaster and Deputies shall be subject to call at any time, day or night, to perform any duty required of them, weather conditions permitting. The harbormaster and deputy harbormaster shall receive salaries for their services, to be paid them by the State Docks Commission from the fees and charges hereinafter imposed, as follows: Harbormaster \$3,600.00 per year, payable in monthly installments of \$300.00; Deputy Harbormasters \$3,300.00 per year payable in monthly installments of \$275.00.

Section 5. No Harbormaster or Deputy shall be discharged from his office except for habitual drunkenness, for being intoxicated while engaged in the performance of duty, willful neglect of duty, incompetence, or willful violation of any rules and regulations promulgated by the Commission. Such person shall be entitled to a hearing before the Commission before being removed and a reasonable opportunity to produce witnesses, and shall be furnished a specification of the charges against him at least ten days in advance of the date set for the hearing.

Section 6. For the purpose of meeting the expense attendant upon the general and special supervision of the Harbor and Port of Mobile and the performance of the duties and services required by this Act, and by the Rules and Regulations herein authorized, and of similar duties relating to the supervision of said Harbor and Port required by other statutory provisions, the following fees and charges, general and special, are hereby imposed against all owners, charterers or persons in possession, to be collected by said Commission on vessels using the Inner Harbor as herein defined, as follows: For each Tugboat in Coastwise towing, per trip . . . \$2.50. For each Vessel under 175 feet in length, per trip . . . \$2.50. (making weekly trips). For each vessel under 175 feet in length, per trip . . . \$5.00 (making longer than weekly trips). For each vessel 175 feet in length, or over, per trip . . . \$7.50. (making weekly or longer than weekly trips). For all vessels in for bunkers only half fees to be charged. For shifting vessels under 1000 tons in the harbor between Quarantine Station and Cochrane Bridge) . . . \$5.00. For shifting vessels 1000 tons, or over, in the Harbor between Quarantine Station and Cochrane Bridge . . . \$10.00. For



shifting vessels from points between Cochrane Bridge and Chickasaw or in Spanish River . . . \$15.00. For shifting vessels to or from points between Spanish River and L. & N Bridge . . . \$20.00. For mooring or unmooring vessels under 1000 tons . . . \$5.00. For mooring or unmooring vessels 1000 tons, or over . . . \$10.00. The said Commission is authorized and empowered to collect said fees and charges by any appropriate proceeding in personam or in rem, when authorized by the Governor. The said Commission is hereby authorized to make such reasonable changes in said charges or any of them by raising or lowering them as may be necessary to carry out the purpose of this Act, or to lower the same as may be necessary to protect said Port from discrimination at other ports.

Section 7. This act shall not be construed to conflict with an act approved March 4, 1931, entitled: "An Act to create a pilotage commission to be known as the State Pilotage Commission, to define its jurisdiction, powers and duties, to regulate pilots and pilotage and to fix fees therefor; to prescribe the mode, penalties and procedure for the violation of this act, and to repeal all laws in connection therewith" or an act approved August 1, 1931, entitled: "An Act to further provide for the jurisdiction and powers of the State Pilotage Commission and to authorize said Commission to prescribe and promulgate rules and regulations for the piloting of ships and all water craft into and out of all harbors and sea ports in the State of Alabama, and to provide that the State Pilotage Commission shall not have jurisdiction over harbor masters or deputy harbor masters" or any amendments to said acts; nor shall the powers, authority or jurisdiction conferred upon said State Docks Commission of Alabama by the provisions of this act be construed to repeal any power, authority or jurisdiction that is vested in the State Pilotage Commission under said acts aforesaid, or any amendments thereto.

Section 8. If any provision or provisions of this Act be held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of any other provision or provisions not so declared to be invalid or unconstitutional.

Approved July 8, 1935.

## AN ACT

To amend Sections 7, 9, 12, 18, and to add Section 20 (a). to an Act entitled, "An Act providing for the formation of non-profit membership corporations to be known as electric membership corporations for the purpose of promoting and encouraging the fullest possible use of electric energy in the State by making electric energy available to the inhabitants of the State at the lowest cost consistent with sound economy and prudent management of the business of such corporations; providing for the rights, powers and duties of such corporations; authorizing and regulating the issuance of revenue obligations by such corporations; and providing for the payment of such obligations and the rights of the holders thereof," (approved February 7, 1935).

*Be it Enacted by the Legislature of Alabama:*

Section 1. Section 7 of an Act entitled "An Act providing for the formation of non-profit membership corporations to be known as electric membership corporations for the purpose of promoting and encouraging the fullest possible use of electric energy in the State by making electric energy available to the inhabitants of the State at the lowest cost consistent with sound economy and prudent management of the business of such corporations; providing for the rights, powers and duties of such corporations; authorizing and regulating the issuance of revenue obligations by such corporations; and providing for the payment of such obligations and the rights of the holders thereof," approved February 7, 1935, be and the same is hereby amended so as to read as follows: "Section 7. The board shall have power to do all things necessary or convenient in conducting the business of a corporation, including but not limited to: (a) The power to adopt and amend by-laws for the management and regulation of the affairs of the corporation. The by-laws by a corporation may make provisions, not inconsistent with law or its certificate of incorporation, regulating, the admission, withdrawal, suspension or expulsion of members; the transfer of memberships; the fees and dues of members and the termination of memberships on non-payment of dues or otherwise; the number, times and manner of choosing, qualifications, terms of office, official designations, powers, duties and compensation of its officers; defining a vacancy in the board or in any office or the manner of filling it; the number of members, not less than twenty (20) per cent, to constitute a quorum, at meetings, the date of the annual meeting and the giving of notice thereof and the holding of special meetings and the giving of notice thereof; the terms and conditions upon which the corporation is to render service to its members, the disposition of the revenues and receipts of the corporation; regular and special meetings of the board and the giving of notice thereof. (b) To appoint agents and employees and to fix their compensation and the com-

pensation of the officers of the corporation. (c) To execute instruments. (d) To delegate to one or more of the directors or to the agents and employees of a corporation such powers and duties as it may deem proper. (e) To make its own rules and regulations as to its procedure."

Section 2. Section 9 of the said Act be and the same is hereby amended so as to read as follows: "Section 9. The corporate purpose of each corporation formed hereunder shall be to render service to its members only, and no person shall become or remain a member unless such a person shall use energy supplied by such corporation and shall have complied with the terms and conditions in respect to membership contained in the by-laws of such corporation. The membership fee of the corporation shall not exceed ten dollars (\$10.00). Should the corporation acquire any electric facilities already dedicated or devoted to the public use it may, for the purpose of continuing existing service and avoiding hardship, continue to serve the persons served directly from such facilities at the time of such acquisition without requiring that such persons become members. In no event shall the number of such non-members served exceed forty-nine percentum (49%) of the total number of persons served by the corporation. Such non-member customers shall have the right to become members upon non-discriminatory terms. The rates to such non-members shall be on a cost basis and may exceed the rates to members by only such amounts as may be necessary to meet the full actual cost of service to such non-members. Any corporation formed hereunder, rendering service in a county in this state adjacent to a county or counties of any other state, is authorized, upon compliance with the laws of such other state, to render service in such county or counties of such other state, and persons served in such county or counties may become members."

Section 3. Section 12 of the said Act be and the same is hereby amended so as to read as follows: "Section 12. No corporation may sell, mortgage, lease or otherwise encumber or dispose of any of its property (other than (1) property which, in the judgment of the board, is neither necessary nor useful in operating and maintaining the corporation's system and which in any one year shall not exceed ten percentum in value of the value of all the property of the corporation, or (2) merchandise) unless (a) Authorized so to do by the votes of at least a majority of its members and (b) the consent of the holders of seventy-five percentum in amount of the bonds of such corporation then outstanding is obtained."

Section 4. Section 18 of the said Act be and the same is hereby amended so as to read as follows: "Section 18. A corporation formed hereunder shall have power to charge reasonable fees, rents, tolls, prices and other charges for service rendered which

shall be sufficient at all times to pay all operating and maintenance expenses necessary or desirable for the prudent conduct and operation of its business and the principal of and interest on such obligations as the corporation may have issued or assumed in the performance of the purpose for which it was formed and the revenues and receipts of a corporation shall first be devoted to such operating and maintenance expenses and to the payment of such principal and interest and thereafter to such reserves for improvement, new construction, depreciation and contingencies as the board may from time to time prescribe. Revenues and receipts not needed for these purposes shall be returned to the members, either in cash or in payment of past due or current charges for energy, as the board may decide, (1) in proportion to the gross operating revenues received from each, or (2) such return may be made by way of a general rate reduction to members, if the board so elects.

Section 5. The said Act be and the same is hereby amended by adding a new section numbered 20 (a) to read as follows: "Section 20 (a). Any corporation or association organized under generally similar laws of another state shall be allowed to carry on any proper activities, operations and functions in this state upon compliance with the general regulations applicable to foreign corporations desiring to do business in this state."

Section 6. This Act shall become effective immediately upon its passage and approval.

Approved July 8, 1935.

No. 177)

(S-184—Russell

## AN ACT

To authorize and empower the governing bodies of all counties in this State, which are now collecting or may hereafter collect as much as Forty Thousand Dollars per year from any road or bridge tax of one-fourth of one per centum levied under Section 215 of the present Constitution of Alabama, to transfer and assign, sell or pledge not more than fifty per centum of the county's part of the gasoline taxes now or hereafter levied by the State of Alabama, and divided among the sixty-seven counties of this State, for a period of not exceeding twenty years, and to authorize the issuance and sale of warrants, securities, debentures or assignments of said taxes, and to provide for the payment of such warrants, debentures, securities or assignments out of such county's part of such gasoline taxes; and to provide for the use of such proceeds of sale of such securities in the construction, maintenance, repair, surfacing, or re-surfacing of roads and bridges, and the matching of funds with the State of Alabama or the United States of America, for highway and bridge purposes; and to further provide for authority by the counties for the deposit

of such proceeds with the State of Alabama for highway or bridge purposes.

*Be it Enacted by the Legislature of Alabama:*

Section One: That the provisions of this Act shall apply to all counties in this State which are now collecting or which may hereafter collect as much as Forty Thousand Dollars per annum from the proceeds of the road or bridge tax of one fourth of one per centum authorized by Section 215 of the present Constitution of the State of Alabama.

Section Two: That the Courts of County Commissioners, Boards of Revenue, or other governing bodies of such counties in this State, shall have power and authority, by resolution legally passed and adopted at any legal meeting of such Court or Board, to issue county warrants, debentures, certificates, or orders, or other like forms of securities against 50% of such county's part of the Gasoline Taxes levied by the State of Alabama and allocated or divided among the sixty-seven counties of this State herein described for a period of twenty years, such securities to be in such denominations and with such maturities, and to bear such rate of interest, not exceeding six per cent per annum, as the Court of County Commissioners, Board of Revenue, or like governing body of a county, may determine; and said securities, when so issued, may be sold at public sale, either in whole or in part, as the money may be needed by such county for the purpose described in this Act. In the event of such public sale, notice of the same shall be given for ten days by publication at least two times in some newspaper published in the county, or, if no newspaper is published in the county, then by posting such notice at three public places in such county for a period of ten days; and, in like manner, such warrants or securities may be sold at private sale to any agency of the United States of America without public notice, provided that notice of the intention to sell at private sale to a purchaser other than a United States Agency, and the time and place of such private sale of such securities be given for ten days as herein provided for in case of public sale; and provided further that said securities may be delivered to any contractor or material man, or other persons furnishing labor, materials, feed stuffs, or supplies to such county, for road or other work described in this Act; or may be delivered to the State of Alabama.

Section Three: Said securities, if they bear six per cent per annum interest, shall not be sold for less than par, but if said warrants bear smaller rate of interest than 6% per annum, then such warrants or securities may be sold at a price to yield not more than 6% per annum interest. That the general faith and credit of the County shall not be pledged to the payment of such securities, nor shall such securities be the general obligation of

said county issuing the same, but that the holder of said securities shall look solely for the payment of said securities to the gasoline tax herein described, and said securities and resolutions authorizing their issuance may pledge to the holder of such warrants not more than 50% of the County's part of such gasoline tax of the county so issuing the same for not more than twenty years; and, if such securities or warrants are issued, no part of the gasoline tax allocated to said County and assigned or pledged to the payment of warrants or certificates shall be used for any purpose except the payment of said warrants or securities. The warrants or securities issued under this Act, and under the authority of such Courts of County Commissioners, Boards of Revenue, or other governing bodies, shall have priority over each in the order of their issuance. Such securities shall, under no circumstances, be debts of the county, nor shall the county be liable in any manner except for the proper assignment and transfer of such gasoline taxes.

Section Four: That such counties in this State, through their Courts of County Commissioners, Boards of Revenue, or other governing bodies, are authorized to use such gasoline tax, or the proceeds of warrants or securities issued and sold against the same, for the construction, maintenance, repair, surfacing or resurfacing, grading and draining of roads, streets, bridges and causeways in such counties; and to join with the State of Alabama or the United States of America, or both, in the construction or surfacing of roads or bridge projects in such county; and such proceeds may be deposited with the State of Alabama to be used by the State or Government in highway or bridge construction in such county; and such proceeds may be used for the payment of any expense or interest charge necessary or incident to such purposes, or the issuance or sale of such securities, and for the payment of interest and principal of any warrants or securities issued under the authority of this Act by such County authorities.

Section Five: That all laws and parts of laws in conflict with this Act, be and the same hereby are repealed.

Section Six: That if any part, section or clause of this Act is unconstitutional, it shall not affect the remaining parts of this Act.

Section Seven: This Act shall go into effect on its approval by the Governor.

Approved July 8, 1935.

No. 180)

(S. 215—Swift)

## AN ACT

To amend the Code of Laws for the State of Alabama, known as the "Agricultural Code of Alabama", of 1927, adopted as the Code of Laws for the State of Alabama, prepared in accordance with the provisions of the Act approved February 18, 1927, (H.273—Goode) by the Act of the Legislature approved August 24, 1927, and which pertains to Agriculture and Industries and relating subjects which are administered by, concern or relate to the duties of the Commissioner of Agriculture and Industries or the State Board of Agriculture as follows: Amend Section 347 of Article Thirty-one pertaining to supervision of Cotton Gins.

*Be it Enacted by the Legislature of Alabama:*

That Section 347, of Article Thirty-One of the "Agriculture Code of Alabama", of 1927, be and the same is hereby amended so as to read as follows: Section 347. PERMIT TO OPERATE COTTON GIN.—The proprietor, lessee or manager of any cotton gin shall procure on or before July First of each year from the Commissioner, a permit to do business as a cotton ginner, the application for which shall be made upon forms to be furnished by the Commissioner. In the issuance of the permit the Commissioner shall consider the responsibility and qualifications, as well as the capacity of the person or persons or corporation to do such ginning business, so far as to afford all reasonable facilities, conveniences and services to the public, and shall have the power and authority to require such facilities, conveniences and services to be afforded the public before a permit is granted.

Approved July 8, 1935.

No. 181)

(H. 251—McDermott)

## AN ACT

To Amend Section 2 of An Act entitled "An Act to authorize the creation and incorporation of a Commission, providing for its powers and duties, authorizing it to lease or purchase, construct and reconstruct Highway Bridges, approaches and appurtenances thereto, across any river in the State of Alabama or across any body of water separating the mainland of the State of Alabama from any island forming a part of the State of Alabama, to maintain and operate said bridges, approaches and appurtenances thereto, and charge tolls thereon, and to issue bonds; providing for the payment of such bonds and providing for the rights and remedies of bondholders" approved February 7th, 1935.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That Section 2 of an act entitled "An Act to authorize the creation and incorporation of a Commission, providing for its powers and duties, authorizing it to lease or purchase, construct and reconstruct Highway Bridges, approaches and ap-

purtenances thereto, across any river in the State of Alabama or across any body of water separating the main land of the State of Alabama from any island forming a part of the State of Alabama, to maintain and operate said bridges, approaches and appurtenances thereto, and charge tolls thereon, and to issue bonds; providing for the payment of such bonds and providing for the rights and remedies of bondholders" approved February 7th, 1935, be amended so that the same shall read as follows: Section 2. DEFINITIONS. The term "Commission" as used in this Act shall be construed to mean the corporation authorized to be created by Section One of this Act. The term "project" shall mean a highway bridge, together with approaches and appurtenances thereto across any river in the State of Alabama, or across any body of water separating the main land of the State of Alabama from any island forming a part of the State of Alabama.

Section 2. This Act shall be effective immediately upon its passage and approval.

Approved July 8, 1935.

No. 184)

(S. 252—Walden

### AN ACT

To amend Section 2341 of the Code of Alabama of 1923 and an amendment thereto, approved August 9, 1927, entitled "An Act to amend Section 2341 of the Code of Alabama of 1923."

*Be it Enacted by the Legislature of Alabama,*

That Section 2341 of the Code of Alabama of 1923 as amended by an Act approved August 9, 1927, entitled "An Act to amend Section 2341 of the Code of Alabama," be amended so as to read as follows: Section 2341. "Immediately after the adoption of such form of Government, which shall go into effect upon election and qualification of the Commission, the Probate Judge of the County, with whom the petition was filed, shall forthwith call an election to be held under and to be governed by Article 46 Chapter 43 of the Code of Alabama, 1923, except as changed herein, the expense thereof to be paid by the municipality, for the election of three (3) Commissioners by the qualified electors of the municipality. The three persons receiving a majority of the votes cast in said election shall be elected thereto; and in the event three persons should fail to receive a majority of said votes so cast in said election, then, and in that event, those persons receiving a majority shall be elected, and another election shall be held within one week to be called and held in the same mode and manner, and under the same rules and regulations, and in the second election there shall be two candidates for each place to be filled in such second elec-



tion; the person or persons receiving the highest number of votes, two for each place, shall be the only candidates in such second election; and the person or persons so receiving a majority of the votes so cast in the second election shall be elected, so that in the first and second elections only three Commissioners shall be elected. If none of the candidates shall receive a majority of the votes in the first election, then only the six persons receiving the highest number of votes in the first election shall be the only candidates in the second election. If only one of the candidates shall receive a majority of the votes in the first election, he shall be elected thereto, and then only the four persons receiving the next highest number of votes, and not receiving a majority, in the first election, shall be the only candidates in the second election. If only two of the candidates shall receive a majority of the votes in the first election, then they shall be elected thereto, and the two persons receiving the next highest number of votes, and not receiving a majority, in the first election, shall be the only candidates in the second election. The terms of office of such persons so elected shall commence immediately upon their election and qualification, and who shall hold office until the First Monday in October of the third (3rd) year following, and until their successors are elected and qualified, and an election shall be held on the third Monday in September of the year preceding the expiration of the term of office of said three (3) Commissioners, at which election three (3) Commissioners shall be elected for a period of one (1), two (2) and three (3) years, respectively, and on the same date of each succeeding year for the member of the Board of Commissioners, whose term shall expire in that year, the Commissioner then elected shall hold office for a term of three (3) years from the first Monday in October of said year, and until his successor shall be elected and qualified for office." This Act shall go into effect immediately upon its approval and shall apply to the election of Commissioners held or called after June 8, 1935.

Approved July 8, 1935.

No. 185)

(H. 224—Welch

### AN ACT

To Amend Section 10313 of the 1923 Code of Alabama.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That Section 10313 be amended so as to read as follows: 10313. (5977) (3851) (691) (585) (674) BOND.—Such marshal, shall enter into bond, with good surety, payable to the State of Alabama in the sum of Five Thousand Dollars, to be approved by one of the justices of the Supreme Court, and condi-

tioned that he will discharge all of the duties which are, or may be required of him by law.

Section 2. That all laws and parts of laws in conflict herewith are hereby repealed.

Approved July 8, 1935.

No. 186)

(H. 228—Welch

### AN ACT

To Amend Section 3427 Of The Code Of Alabama 1923.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That Section 3427 of the Code of Alabama 1923 be and the same is hereby amended so as to read as follows: 3427. ON CONVICTION, JUDGMENT FOR COSTS AND BOND REQUIRED TO SUPPORT AND EDUCATE CHILD. On the trial of such issue, if found against the defendant, judgment must be rendered against him for the costs, and he must also be required to enter into bond with surety, to be approved by the judge, in the sum of One Thousand Dollars, payable to the state, and conditioned to pay the costs of the proceeding, and such sum, not exceeding One Hundred Dollars a year, as the court may prescribe, on the first Monday in January, in each year, for ten years, to the Judge of Probate of the county, for the support and education of the child, which bond must be recorded. For the enforcement of the judgment against the defendant in all such cases, the law of garnishment on judgment shall apply as in civil cases made and provided.

Section 2. All laws and parts of laws in conflict with this Act be and the same are hereby repealed.

Section 3. This Act shall take effect immediately after its approval by the Governor.

Approved July 8, 1935.

No. 188)

(H. 319—Kirby

### AN ACT

To Amend Section 462 Of The Code Of Alabama Of 1923.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That Section 462 of the Code of Alabama of 1923 be amended so as to read as follows: 462. (372) (1606) NAMES OF CANDIDATES PLACED ON BALLOTS; CERTIFICATE OF NOMINATION.—The probate judge of each county shall cause to be printed on the ballot to be used in their respective counties, the names of all the candidates who have been put in nomination by any caucus, convention, mass meeting, primary

election, or other assembly of any political party of faction in this state, and certified in writing and filed with him not more than sixty days nor less than twenty days previous to the day of election. The certificate must contain the name of each person nominated and the office for which he is nominated, and must be signed by the presiding officer and secretary of such caucus, convention, mass meeting, or other assembly, or by the chairman and secretary of the canvassing board of such primary election, and their signatures must be duly acknowledged by one or more of them before an officer authorized by law to take acknowledgments. The judge of probate shall also cause to be printed upon the ballots the name of any qualified elector who has been requested to be a candidate for any state, county, municipal or federal office by written petition signed, in case of a candidate for a state or federal office, by at least three hundred electors, and in case of a county or municipal office, by at least twenty-five electors qualified to vote in the election, to fill said office; when such petition has been filed with him not more than sixty days nor less than twenty days previous to the election. In case of a person to be voted for by the electors of the whole state or of an entire congressional district or judicial circuit, the certificate of nomination or the petition must be filed in the office of the secretary of state not less than thirty days before the day of election; and the secretary of state must thereupon immediately certify to the judge of probate of each county in the state, in case of an officer to be voted for by the electors of the whole state, and the judges of probate of the counties composing the circuit or district, in case of an officer to be voted for by the electors of a circuit or district, upon suitable blanks to be prepared by him for that purpose, the fact of such nomination and the name of the nominee or nominees and the office to which he or they may be nominated. In case of a person to be voted for by the electors of a senatorial district, the petition or certificate of nomination must be filed with the judge of probate of each county composing the senatorial district. Provided, however, that the judges of probate of the several counties in this state are hereby prohibited from causing to be printed upon the ballot to be used in their respective counties the name of any candidate for any state, county, or federal office who had not filed his or her declaration to become such a candidate before the first Tuesday in May in the year in which a state-wide primary election is held.

Approved July 8, 1935.

No. 190)

(H. 609—O'Neal

## AN ACT

To appropriate funds for the payment to the persons to whom originally due, their heirs, executors or administrators, of unpaid costs and fees of jurors, officers and witnesses which are legal charges against any county fund, accrued, or which will accrue, in the prosecution of the criminal cases now pending against Haywood Patterson, Eugene Williams, Charlie Weems, Roy Wright, Ozie Powell, Willie Robertson, Andy Wright, Olen Montgomery and Clarence Norris; to provide the manner of the payment of such costs and fees; and to provide penalties for the disbursement of any funds hereby appropriated for any purpose or in any manner not authorized hereby.

Whereas the extended litigation of the cases involving the persons named in the title to this Act, has resulted in unprecedented expense to the counties in which said cases are being prosecuted; and whereas the payment of such costs and fees in said cases by the said counties or from the several funds thereof will be unusually burdensome to the said counties and to the several funds thereof,

*Be it Enacted by the Legislature of Alabama:*

Section 1. That there is hereby appropriated for the payment to the persons to whom originally due, their heirs, executors and administrators, of unpaid costs and fees of jurors, officers and witnesses which are legal charges against any county fund now accrued or which may hereafter accrue in the prosecution of criminal charges now pending against Haywood Patterson, Eugene Williams, Charlie Weems, Roy Wright, Ozie Powell, Willie Roberson, Andy Wright, Olen Montgomery and Clarence Norris, the sum of Thirty Five Thousand (\$35,000.00) Dollars or so much thereof as may be necessary, to be disbursed as hereinafter provided, out of any monies in the Treasury not otherwise appropriated.

Section 2. That the State Comptroller is hereby authorized and directed to draw warrants upon the State Treasury payable to the Clerk of the Circuit Court of said counties, for the payment of any claims for which appropriation is made by this Act, upon the certificate of said Clerk of the Circuit Court of the several counties herein referred to, to be approved by the presiding judge of the Circuit Court of the county on such forms as may be provided by said State Comptroller, if upon examination and audit thereof the State Comptroller finds the same to be correct. The certificate made by the Clerk of the Circuit Court shall itemize in detail each item appearing thereon; and shall state the name of the person to whom the same was originally payable, the certificate number, if any, issued to the said original holder and the date thereof and such other information as may be required by the comptroller.

Section 3. That upon receipt of warrants for the payment of any such items, the Clerk of the Circuit Court shall disburse the same to the persons shown on the certificate to the Comptroller,

their heirs, executors or administrators, and to none others. It being the purpose and intent of this Act that in no event shall any fund appropriated hereby be expended for the payment of any claim which has been transferred, assigned, pledged or hypothecated by the person to whom the same originally accrued. Within ninety (90) days of his receipt of any warrant of the State Comptroller for the payment of any item herein provided for, the Clerk of the Circuit Court shall certify to the Comptroller the disbursements therefrom made by him, the names of the persons to whom payments have been made and the amount paid to each. And at the time of making such certificate the Clerk of the Circuit Court shall return to the office of the State Comptroller any unexpended balance of the amount of such Comptroller's warrant or warrants.

Section 4. The Clerk of the Circuit Court and the Sureties on his official bond shall be liable for any disbursement of the funds appropriated hereby for any purpose or in any manner other than that herein provided for; and the amount of any such disbursements so illegally made may be recovered by motion for summary judgment in favor of the State or in favor of any person injured thereby, as is provided by Section 10247 of the Code of 1923.

Section 5. That all laws or parts of laws in conflict herewith be and the same are hereby repealed.

Section 6. That this Act shall be effective from and after the date of its passage and approval.

Approved July 8, 1935.

No. 192)

(S. 174—Mooneyham

### AN ACT

To provide for safety on the roads and highways of the State of Alabama, and to require every person using, operating, or driving a motor vehicle over the roads and highways of the State of Alabama to bring said motor vehicle to a complete stop before passing a school bus or other vehicle used to transport school children while such school bus or other vehicle, is engaged in taking on or discharging school children, and to prescribe penalty for violation of said act.

*Be it Enacted by the Legislature of Alabama:*

Section I. That every person using, operating or driving a motor vehicle upon or over the roads and highways of the State of Alabama shall, when approaching a school bus, or other vehicle engaged in transporting school children, bring said motor vehicle to a complete stop, while said school bus, or other vehicle used in transporting school children, is engaged in taking on or discharging school children.

Section II. That any person violating this Act shall upon conviction be punished by a fine not to exceed three hundred (\$300.00)

dollars, or by imprisonment in the County jail not to exceed ninety (90) days, or both, at the discretion of the court.

Section III. That this Act shall become effective immediately upon approval of the Governor.

Section IV. That all laws and parts of laws in conflict with the provisions of this Act be and the same are hereby repealed.

Approved July 17, 1935.

No. 193)

(S. 195—Simpson

### AN ACT

To amend Sections 1601, 1602, 1605, 1606, 1607, 1609, 1610, 1611, 1612, 1616, 1617, 1622, 1623, 1624, 1628, 1631, 1634, 1636, 1637, 1638, 1640, 1642, 1644, 1645, 1647, 1648, 1650, 1652, 1653, 1654, 1655, 1657, 1658, 1659, 1660, 1662, 1664, 1667, 1668, 1670, 1680, 1682, 1683, 1692, 1693, 1698, 1701, 1702, 1703, 1710, 1716, 1719, and 1724, of the Code of Alabama, 1923, relating to the regulation of coal mining in this State.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That Section 1601 of the Code of Alabama be amended to read as follows: 1601. APPOINTMENT AND TERM OF OFFICE FOR INSPECTORS:—There shall be appointed by the Governor, a chief mine inspector for coal mines, and a sufficient number of associate inspectors to maintain the following schedule of mine inspections:—For gassy mines, one complete inspection every 45 days, and more often if necessary. For non-gassy mines, one complete inspection every 90 days, and more often if necessary. The chief mine inspector shall hold office for three years. The term of associate mine inspectors shall be for three years. The appointment of associate mine inspectors shall be so alternated that one half of the total quota, or the nearest portion thereof, shall overlap the appointments of the other half by one or two years respectively. Provided however that at no time shall there be more than 7 (seven) associate mine inspectors employed hereunder.

Section 3. That Section 1605 of the Code of Alabama be amended to read as follows: 1605: QUALIFICATIONS FOR CHIEF MINE INSPECTOR AND ASSOCIATES. The chief mine inspector shall be a qualified elector, and shall be a competent person, having had twelve or more years experience in the working, ventilating and drainage of coal mines in this State, and having a practical scientific knowledge of all noxious and dangerous gases found in such mines; he must have a mine-foreman certificate of competency of the State of Alabama and must be not less than thirty years of age. The associate mine inspectors shall be qualified electors and each shall possess a mine-foreman certificate of competency of the State of Alabama, and shall have had

eight or more years practical experience in coal mines and shall be not less than twenty-eight years of age. The associate mine inspectors shall reside at such points convenient to their respective districts as the chief mine inspector may designate, and the chief mine inspector shall designate the districts. No one shall be appointed mine inspector who, or the wife of whom, has any pecuniary interest in any coal mine in Alabama. No possessor of second class mine foreman certificate of competency shall be eligible to serve as mine inspector.

Section 4. That Section 1606 of the Code of Alabama be amended to read as follows: 1606. UNLAWFUL TO HAVE OTHER EMPLOYMENT.—The chief mine inspector or any associate mine inspectors shall not be otherwise employed by the State of Alabama. Nothing in this article shall be construed in such way that any one now employed or hereafter to be employed as mine inspector shall be debarred from the position of associate mine inspector if he possesses the required qualifications.

Section 5. That Section 1607 of the Code of Alabama be amended to read as follows: 1607. DUTY TO EXAMINE COAL MINES, ETC.,—The mine inspectors shall give their whole time and attention to the duties of their offices. Their duties are to examine all working places in mines, in this state, to see that all the requirements of this article are strictly observed and carried out; inspectors shall examine the works and machinery connected with said mine, examine into the state of the coal mine as to ventilation, circulation, and conditions of air, drainage, and general security.

Section 6. That Section 1609 of the Code of Alabama be amended to read as follows: 1609. REPORT. A comprehensive report by the chief mine inspector, of each inspection of each coal mine shall be promptly made to the operator, superintendent and mine-foreman, and said report in the hands of the superintendent shall be accessible to employees affected, or to representatives of said employees. This report to be on a form provided for that purpose and compiled by the chief mine inspector. This report to be on a form provided for that purpose and compiled by the chief mine inspector. This report form may be changed by the chief mine inspector, from time to time, as may seem desirable.

Section 7. That Section 1610 of the Code of Alabama be amended to read as follows: 1610. PROMPT INVESTIGATION OF ACCIDENTS.—The chief mine inspector or one or more of his associates shall promptly investigate all accidents resulting in serious injury or death to any person or persons, whether employees or non-employees, in or about the mines.

Section 8. That Section 1611 of the Code of Alabama be amended to read as follows: 1611. AUTHORITY TO ISSUE SUBPOENAS, ETC.,—The chief mine inspector has the author-

ity to administer oath and to issue subpoenas requiring the attendance of witnesses, to testify under oath in any proceeding, and require witnesses to answer all proper questions propounded to them. The sheriff or constable in the county in which such witnesses may reside or be found, shall execute subpoenas issued as above provided, and they shall each receive for their services in executing such subpoenas the same fees as are allowed them respectively for executing subpoenas in other cases. Any witnesses summoned as above mentioned shall be entitled to the same mileage and per diem as is now allowed by law to such witnesses attending trials in the circuit court.

Section 9. That Section 1612 of the Code of Alabama be amended to read as follows: 1612. FAILURE OF WITNESS TO ATTEND OR TESTIFY.—If any witness subpoenaed as above mentioned shall fail to attend without good excuse, in accordance with the subpoena served on him, or shall fail to testify when attending, said chief mine inspector before whom said proceedings are being had, shall certify to the failure of any witness to attend and testify, to a judge of any court of record in the county where such proceeding is being held. The judge to whom such certificate is made shall cause such witness to appear before him at a time fixed by said judge, to show cause why he should not be punished for contempt, and shall fine or imprison such witness as such judge may deem proper in case he is found guilty of contempt in the premises.

Section 10. That Section 1616 of the Code of Alabama be amended to read as follows: 1616. STANDARDS, ETC. TO BE PROCURED.—The chief mine inspector shall procure for the state at the state's expense a full and complete set of standards and other equipment, such as, in his opinion, are necessary in the testing of scales, beams, and other necessary apparatus, to be used for the just weighing of coal and other material at the coal mines, according to the state standard of weights; and said inspector and associates shall examine, test and cause to be adjusted as often as occasion demands, all scales and other apparatus used in weighing coal at coal mines. At all mines where coal is weighed a set of U. S. Standard Weights, consisting of not less than four, must be on hand for convenience of weighman and check-weighman in testing said scales.

Section 11. That Section 1617 of the Code of Alabama be amended to read as follows: 1617. OPERATION OF MINE MAY BE STOPPED BY INSPECTORS.—It is within the authority of the chief mine inspector or an associate mine inspector to immediately stop the operation of any coal mine or any part thereof in which there is sufficient methane gas or inflammable coal dust that, in his or their opinion, endangers the lives of persons working therein; and only men who have been officially designated



to correct such condition, and are properly protected, shall remain in or enter said place.

Section 12. That Section 1622 of the Code of Alabama be amended to read as follows: 1622. NOTICE TO INSPECTORS BY OPERATOR OF MINE FOR CERTAIN CAUSES ENUMERATED.—Immediate notice must be conveyed to the chief mine inspector and the inspector of the proper district by the operator interested: 1. Whenever an accident occurs whereby any person receives serious or fatal injury. 2. Whenever it is intended to open a new coal mine, or to abandon any coal mine or re-open any abandoned coal mine. 3. Upon the appearance of any dangerous accumulation of fire damp in any coal mine, whether accompanied by explosion or not, and upon the occurrence of any fire within the coal mine or on the surface. 4. When the workings of any coal mine are approaching dangerously near any abandoned coal mine containing accumulations of water or of gas. 5. Upon the accidental closing or intended abandonment of any passage way to an escapement outlet.

Section 13. That Section 1623 of the Code of Alabama be amended to read as follows: 1623. INVESTIGATION OF ACCIDENT CAUSING DEATH OR PERSONAL INJURY—MAJOR ACCIDENTS. The chief mine inspector or associates, whenever notified of any fatal accident or accidents causing serious personal injury, to any person or persons, whether employed or not, at any coal mine in this state, shall require one or more associate inspectors to immediately repair to the scene of the accident or accidents and investigate the cause of such accidents and in case of a major accident, make such orders as are necessary or proper to secure the safety of the persons working therein. The inspection department shall keep on file at its office a list of all accidents resulting in death or serious bodily injury to any person working in or about such mines.

Section 14. That Section 1624 of the Code of Alabama be amended to read as follows: 1624. REPORTS FURNISHED INSPECTOR AS TO VENTILATION.—The owner, operator, or lessee of any gassy coal mines shall send to the chief mine inspector a monthly report or more often if necessary, showing the amount of ventilation at the inlet and outlet; the amount of ventilation at or near the last cross cut in each working entry, the methane content of same, whether split or continuous system, the number of splits, and the number of men and animals on each split. The report shall also include a record of the pressure gauge readings at fan. The above provisions apply to non-gassy mines, except methane content of mine atmosphere.

Section 15. That Section 1628 of the Code of Alabama be amended to read as follows: 1628. BOARD OF EXAMINERS, MEMBERS, ETC.,—There shall be appointed by the Governor a

board of examiners, consisting of the chief mine inspector, together with two practical miners, two operators of coal mines and one mining engineer all of whom shall hold mine-foreman's certificate of competency for the State of Alabama. The chief mine inspector shall be ex-officio chairman, the chairman to vote only in the case of a tie vote, and in the absence of one member of the Board, (a majority of whom shall act), and in the event of the failure to have a quorum the chairman may have the authority to select a qualified person or persons. They shall constitute a board of examiners to examine and give certificates of competency to persons to act as mine foreman or fire bosses in any coal mine in this state.

Section 16. That Section 1631 of the Code of Alabama be amended to read as follows: 1631. MEETINGS.—Said board of examiners shall meet every six months at the office of the chief mine inspector, and remain in session not longer than six days, and special meetings may be called by the chairman, or a majority of the members of said board.

Section 17. That Section 1634 of the Code of Alabama be amended to read as follows: 1634. RULES FOR EXAMINATION.—The examinations herein provided for shall be conducted under such rules, conditions and regulations, as the chairman and the members of the board shall deem most efficient for carrying into effect the spirit and intent of this article. Such rules, when formulated, shall be made a part of the permanent record of the board, and such of them as relate to candidates shall be published for their information and governance prior to each examination; they shall also be of uniform application to all candidates.

Section 18. That Section 1636 of the Code of Alabama be amended to read as follows: 1636. QUALIFICATIONS OF APPLICANTS FOR MINE-FOREMAN'S CERTIFICATES.—Applicants for mine-foreman's certificates shall be at least twenty-three years of age, and shall have had at least five years' practical experience, three years of which shall have been spent within coal mines after having attained the age of eighteen years, and shall be citizens of the United States, and shall present an affidavit as to the above and a certificate of good moral character and of known temperate habits, signed by ten reputable citizens.

Section 19. That Section 1637 of the Code of Alabama be amended to read as follows: 1637. CERTIFICATE OF COMPETENCY FOR MINE-FOREMAN.—The said board shall be entitled to grant certificates of competency to persons who have had experience in coal mines, and who shall have the necessary qualifications to fulfill the duties of mine foreman.

Section 20. That Section 1638 of the Code of Alabama be amended to read as follows: 1638. QUALIFICATIONS OF APPLICANTS FOR FIRE-BOSS CERTIFICATES. — Applicants

for fire-boss certificates shall be at least twenty-three years of age, and shall have had at least three years' practical experience within coal mines after having attained the age of eighteen years, and shall be a citizen of the United States and shall present an affidavit as to the above and a certificate of good moral character and known temperate habits signed by ten reputable citizens.

Section 21. That Section 1640 of the Code of Alabama be amended to read as follows: 1640. **FOREMAN MAY SERVE AS FIRE-BOSS: TEMPORARY MINE FOREMAN.**—Any one holding a mine foreman's certificate may serve as fire-boss. Whenever any exigency arises by which it is impossible for any operator, owner, or lessee to secure the immediate service of a certified mine foreman or fire-boss, he may employ any trust-worthy and experienced man, subject to the recommendation of the associate inspector of the district, and approved by the chief mine inspector to act as temporary mine foreman or fire boss for a period not to exceed sixty days.

Section 22. That Section 1642 of the Code of Alabama be amended to read as follows: 1642. **MINE FOREMAN MUST HAVE CERTIFICATE.**—No person shall be employed as mine foreman in any coal mine in this State unless he is in possession of a certificate of competency as provided for in this article.

Section 23. That Section 1644 of the Code of Alabama be amended to read as follows: 1644. **THE MINE FOREMAN TO DISCHARGE DUTIES AS REQUIRED.**—The mine-foreman or his assistant shall visit each working place on operating days to assure the proper conditions are maintained in the mine as to timbering, ventilation, supplies, and all other conditions pertaining to the safety of the men. He shall further direct and cause to be made a semi-monthly inspection, and more often if necessary, of all accessible abandoned areas in the mine.

Section 24. That Section 1645 of the Code of Alabama be amended to read as follows: 1645. **WATERING & ROCK DUSTING.**—Whenever any slope, entries, travelways, airways and other working places in any coal mine contain dust which will ignite, explode or extend an explosion, said coal dust shall be suppressed and maintained inert by the application of water or rock dust. When coal dust in dangerous quantities exists in abandoned areas, it shall be, where practicable, rendered inert.

Section 25. That Section 1647 of the Code of Alabama be amended to read as follows: 1647. **MINES IN WHICH GAS EXISTS IN QUANTITIES SUFFICIENT TO DETECT: FIRE-BOSSSES, WHEN REQUIRED, AND THEIR DUTIES.**—When gas exists in any coal mine in quantities sufficient to detect by an approved safety lamp, the owner, operator, lessee, or agent of such mine shall employ a certificated fire-boss or fire-bosses, whose duties shall be to examine every working place without exception,

and the adjoining abandoned places thereto, and mark the date of examination in said places in the mine before the men are permitted to enter; but before proceeding with the examination, he shall see that the air current is traveling in its proper course. Whenever gas is detected in any place, the fire-boss shall leave at all entrances thereto a conspicuous sign or mark indicating the danger. Said fire-boss shall contact and inform every man as to the condition of his working place before entering. Said working places shall be carefully examined by the fire-boss within six hours prior to beginning of shift before the workmen are allowed to enter therein.

Section 26. That Section 1648 of the Code of Alabama be amended to as follows: 1648. OPERATION OF ELECTRIC COAL CUTTING MACHINES.—Machine runners and helpers shall use care while operating machines. They shall not operate a machine unless the shields are in place, and no person not engaged in the operation of a machine shall go near the machine while it is in operation. They shall not move the machine while the cutting chain is in motion except in oiling, changing bits or cutting. If they remove props which have been placed by the miner or loader for the security of the roof, they shall reset such props. In any gassy mine a coal cutting machine shall not move from one working place to another until an examination for gas has been made by some competent person authorized or appointed for that purpose by the mine-foreman. If any explosive gas is detected in the place, he shall mark place out and notify mine-foreman or fire-boss.

Section 27. That Section 1650 of the Code of Alabama be amended to read as follows: 1650. EXAMINE WORKING PLACE.—A miner or the responsible person shall thoroughly examine his or their working place or places before beginning work, and shall take down all dangerous slate, or otherwise make it secure by properly timbering it, before commencing work. He shall examine his place to see whether the fire-boss has left the date marks indicating his examination thereof, and if said marks cannot be found it shall be the duty of the miner or the responsible person to notify the mine foreman or the assistant foreman of this fact before commencing work. The miner shall exercise care to keep his working place in safe condition during working hours. Should he at any time find his place becoming dangerous from any cause that might arise he shall at once cease work and inform the mine-foreman or the assistant mine-foreman of said danger, but before leaving his place he shall place a plain warning sign across the entrance thereto to warn others against entering into the danger.

Section 28. That Section 1652 of the Code of Alabama be amended to read as follows: 1652. SAFETY RULES ADOPT-

ED AND PRINTED BY OPERATOR.—The operator of every mine in this State shall adopt reasonable safety rules governing the operation of the mine or mines and said rules shall be in harmony with the provisions of the mining laws of the State of Alabama. They shall be printed on card board or in book form in the English language and posted at some conspicuous place about the mine or mines, or given to each employee.

Section 29. That Section 1653 of the Code of Alabama be amended to read as follows: 1653. TIMBERS TO BE KEPT BY THE OPERATOR AND DELIVERED TO THE WORKING PLACES; DUTIES OF EMPLOYEES REGARDING TIMBERS: Persons operating coal mines in this State shall keep on hand at the mine a sufficient supply of timbers of suitable length and cap pieces to be used for timbering and securing the working places and traveling ways in the mines. It shall be the duty of the miner to order timbers and have a sufficient supply of timbers in his working place. When the miner needs timbers he shall notify the mine foreman or some person designated by the mine foreman, stating the size and length of timbers needed, and the mine foreman or person designated shall see that the timbers ordered by the miner are delivered to the working places designated.

Section 30. That Section 1654 of the Code of Alabama be amended to read as follows: 1654. TWO OPENINGS TO SURFACE REQUIRED.—FUTURE OPENINGS: In all future openings of coal mines, the owner, operator, or lessee, shall have and maintain at least two available openings to the surface from each seam or stratum of the coal worked in such mines, said openings which in case of drift or slope mines, shall be separated by natural strata of not less than 40 ft., and all stoppings between slopes and manways shall be made of fire-proof material. The said openings in case of shaft mines shall be separated by not less than two hundred feet of natural strata. Until the above provisions are obtained, not over 5 men in a drift, 10 men in a slope and 20 men in a shaft shall work in the mine at one time; and no additional development shall be permitted until the connection is made. Both of these openings in all cases, shall be kept in good condition, and shall be at all times reasonably safe and convenient for entering and leaving the mines. The said second opening may be made through another adjoining mine. At all points where the passage way to the escapement shaft, or other places of exit, is intercepted by other roadways or entries, conspicuous sign boards shall be placed indicating the direction necessary to take in order to reach such place of exit.

Section 31. That Section 1655 of the Code of Alabama be amended to read as follows: 1655. VENTILATION REQUIRED.—The operator, superintendent or mine-foreman of ev-

ery coal mine, whether a shaft, slope or drift, shall provide and maintain ample means of ventilation and for the circulation of air and properly conducted through the main entries and all working places, as well as abandoned area where possible, to an extent that will dilute, carry off and render harmless the noxious and explosive gases generated in the mine, the same to be not less than one hundred cubic feet per minute per man, and five hundred cubic feet per mule or horse.

Section 32. That Section 1657 of the Code of Alabama be amended to read as follows: 1657. **BREAKS-THROUGH REQUIRED.**—The chief mine inspector shall require that proper breaks-through be made in all pillars and at such a distance apart, as in the judgment of the mine inspector, may be deemed requisite, but said breaks-through shall not be more than 70 feet apart unless by special permission in writing from the associate mine inspector, and approved by the chief mine inspector.

Section 33. That Section 1658 of the Code of Alabama be amended to read as follows: 1658. **DOORS.**—In gassy mines the doors used for deflecting and conducting the ventilation, when required by the chief mine inspector, shall be installed in pairs and the method of such installation shall be approved by him or his associates. They shall be so spaced as to prevent the interruption of the regular coursing of air, and they shall be so hung and adjusted that they will be self-closing by gravity or by proper mechanism. It shall be unlawful for any person to prop a door or use any other means to hold a door open that will prevent it from being self-closing. Emergency doors shall be provided at all points where doors are used, said doors to be used in case of damage to doors in use. In non-gassy mines single doors are permissible.

Section 34. That Section 1659 of the Code of Alabama be amended to read as follows: 1659. **LOCATION OF VENTILATING FAN.**—No ventilating fan shall be placed nearer than thirty feet to an air shaft or air course and shall be placed to one side of the line of such opening so as to remove the fan from a direct blast or explosion, and the air duct connecting the fan with such opening shall be provided with self-closing explosion doors.

Section 35. That Section 1660 of the Code of Alabama be amended to read as follows: 1660. **FURNACE FOR VENTILATING IN GASSY MINES PROHIBITED.**—It shall be unlawful to use a furnace for ventilating any coal mine in which explosive gas is liberated.

Section 36. That Section 1662 of the Code of Alabama be amended to read as follows: 1662. **INSUFFICIENT VENTILATION.**—If at any time the chief mine inspector or his associates are notified or discover that the ventilation in any coal mine within the State is insufficient, the said chief mine inspector or one of his associates shall proceed to investigate said complaint or complaints

by personal inspection of any mine or mines in which the quantity of air is complained of, and if on investigation he finds that the air in any mine is insufficient, he shall direct the operator or operators of said mines to adopt such measures for the proper ventilation of said mines as he deems necessary, and upon the failure to comply with such directions the chief mine inspector or associate inspector may stop operation of entire mine or the section affected.

Section 37. That Section 1664 of the Code of Alabama be amended to read as follows: 1664. **UNLAWFUL TO BUILD FIRE IN MINE.** It shall be unlawful for any person or persons to make or build any fire in any coal mine without the permission of the superintendent or mine-foreman.

Section 38. That Section 1667 of the Code of Alabama be amended to read as follows: 1667. **SAFETY CATCHES ON CAGES; BRAKE:** Approved safety catches shall be attached to cage used for lowering and hoisting persons into and out of coal mines, and must be provided with suitable sheet iron covers, at least one-fourth inch thick and hinged to open upward to protect persons riding thereon from falling objects, and also with iron bars or rings in proper place and sufficient number to furnish a secure handhold for every person permitted to ride thereon. An adequate brake shall be attached to every drum or machine for lowering and hoisting persons into and out of the mine, and also indicators which shall show to the persons who work the machine the position of the cage or load in the shaft or the roadway. All safety catches and brakes provided for herein shall be carefully inspected and properly oiled daily and shall be at all times kept in good working condition.

Section 39. That Section 1668 of the Code of Alabama be amended to read as follows: 1668. **COMMUNICATION BETWEEN LANDINGS AND SURFACE.**—All shafts and slopes shall be equipped with apparatus suitably adapted for the free passage of sound, through which conversation may be held between persons on the surface and all landings of said shaft and slope.

Section 40. That Section 1670 of the Code of Alabama be amended to read as follows: 1670. **REQUIREMENT FOR OPERATION OF ENGINES, ETC.**—The owner, operator or lessee, of any coal mine shall place in charge of any engines used for conveying into and hoisting out of said coal mine, none but a competent engineer. When hoisting or lowering men an additional engineer shall be provided. No other person unless authorized, shall enter the engine room, and it shall be unlawful for any person to interfere with or intimidate the engineer in the discharge of his duty. No person shall speak to the engineer while the engine is in motion, unless it be in giving signals to him, and notice to this effect shall be posted on the door of the engine house.

Section 41. That Section 1680 of the Code of Alabama be

amended to read as follows: 1680. CABLE TO BE USED FOR HOISTING.—It shall be unlawful to use in any coal mine included within the provisions of this article any rope or cable for hoistering or lowering either men or material, when such hoisting is done by other means than human or animal power, unless such rope or cable shall be composed of iron or steel wires, with a factor of safety determined as hereinafter set forth; but such iron or steel wires may be laid around a hemp center. The factor of safety of all ropes or cables shall, when installed, in no case be less than five and shall be calculated by dividing the breaking strength of the rope as given in the manufacturer's published tables by the sum of the maximum load to be hoisted, plus the total weight of the rope in the shaft when fully let out, plus ten per cent of such values, to take account of shock at starting and stopping. Such ropes or cables shall be examined by competent persons daily.

Section 42. That Section 1682 of the Code of Alabama be amended to read as follows: 1682. DRIVER NOT TO ASCEND OR DESCEND SHAFT WITH ANIMAL EXCEPT UNDER CERTAIN CONDITIONS.—No driver or other person shall be permitted to descend or ascend a shaft with any horse or mule, unless the said horse or mule is secured in a suitable box or safely penned, and only the driver in charge of said horse or mule, and such assistants as he may need, shall accompany it in any case.

Section 43. That Section 1683 of the Code of Alabama be amended to read as follows. 1683. DETAIL MAP OF MINE. WHAT MUST SHOW.—The owner, operator, or lessee of any coal mine in this state shall make or cause to be made by a competent engineer an accurate and exact detail map of said mines showing the exact position of said mine in reference to the section line, which shall be connected with known boundary lines of the section or sub-division of the section. Said map shall show accurately the position of any branches, creeks, rivers and railroads under which said mine workings extend; also as near as possible the position of any coal mines nearby. The location of all oil and gas wells shall be shown on said map. Said maps shall show all shafts, slopes, tunnels, or other openings to the surface or to the workings of a contiguous coal mine; all excavations, entries, rooms and cross-cuts; the location of the fan or furnace and the direction of the air currents; the location of pumps, hauling engines, engine planes, abandoned works, fire walk and standing water; and the boundary line of any surface out-crop of the seam. A separate and similar map, drawn to the same scale in all cases, shall be made of each and every seam, which after April 18, 1911, shall be worked in any coal mine and the maps of all such seams shall show all shafts, inclined planes or other passage ways connecting the same. Each map shall also show by elevation in feet



and decimals thereof the rise and dip of the seam from the opening in either direction to the face of the workings. Said map shall be sworn to by the engineer making the same. The map provided for herein shall be filed with the chief mine inspector during the month of January, next after opening of said mine, and shall show its condition on the first day of such January and all new work inside of the mine must be added to said map, or a new map filed each year thereafter, showing the condition of the mine on the first day of January of the same year, and this provision for additions to maps shall apply to all maps which have heretofore been filed in the office of the chief mine inspector. Said maps shall be filed in the office of the chief mine inspector, who shall provide a suitable and safe place for keeping them. The chief mine inspector with the approval of the board of inspectors may refuse to accept maps when made by persons not known to be capable of doing such work. They shall be of good standing and character. The mine boss in charge of such mine shall certify on each map as to the correctness of such map to the best of his knowledge and belief. Said map shall be made on a legible scale. The persons entitled to examine maps, plats, and records of a coal mine shall be the owner, operator or lessee or agent of such coal mine, the person financially interested in such mine; the owner or owners of land adjoining such mine; the owner or owners of land adjacent to such mine; the owner, operator or lessee or agent of a coal mine adjacent to such mine, and the authorized representative of the employees of such or the employees driving any break-through liable to break into adjacent mine. The chief mine inspector shall not permit such maps, plans, records and papers to be removed from his office, and shall not furnish copies thereof to any person except by request of the owner, operator, lessee or agent of the mine to which such maps, plans and records pertain.

Section 44. That Section 1692 of the Code of Alabama be amended to read as follows: 1692. REGULATION AS TO THE USE OF GASOLINE AND NAPHTHA.—No gasoline or naphtha shall be used in a coal mine, except for operating machinery, blow-torches, safety lamps or for operating under the following regulations; notice shall be made to the chief mine inspector before installing, and the installation and operation shall be subject to his approval. The supply tank from which the gasoline or naphtha is fed to the engine shall be of metal with a suitable screw cap opening, fitted with a gasket so as to make the tank tight, and the tank kept free from leaks. The gasoline or naphtha shall be fed from a tank to the carburetor or mixer by metal tubes securely connected so as to reduce the possibility of leaks to a minimum; the exhaust from the engine, when discharged in the mine, must not contain more than twelve volumes of carbon dioxide and one

volume of carbon monoxide to ten thousand volumes of air, and must be on the return air current direct to surface and not contacting any working places. At no time shall more than one day's supply of same be taken into the mine at any one time and at no time shall there be more than one day's supply in the mine, including that in the supply tank. No gasoline or naphtha shall be taken into the mine except in metallic cans, with a screw can opening at the top, fitted with a suitable gasket; no package or can or the supply tank of an engine containing gasoline or naphtha shall be opened until ready to make the transfer from the package or can to the supply tank, and in transferring a funnel shall be used so as to avoid spilling the gasoline or naphtha, and the cap on the supply tank shall be immediately closed; in no case shall the package, can or supply tank be opened with any open light or other thing containing fire within twenty-five feet of the same.

Section 45. That Section 1693 of the Code of Alabama be amended to read as follows: 1693. OILING CARS INSIDE OF MINE FORBIDDEN: OILS PERMITTED IN MINES.—The oiling or greasing of cars inside of coal mines is strictly forbidden, unless the place where said oil or grease is used is kept reasonably clean at all times. Not more than three barrels of lubricating oil shall be stored in the mine at any one time, and must be kept in a fire-proof compartment connecting with return airway direct to the surface, said air current not contacting active workings.

Section 46. That Section 1698 of the Code of Alabama be amended to read as follows: 1698. BLASTING IN GASSY MINES DURING THE SHIFT.—When permissible electric miners' lamps for illumination are used it shall be unlawful for any person or persons to fire a blast in any place or places in a mine that liberates explosive gas, unless said places be examined for gas immediately prior to lighting the shot or shots, and, after shooting, the said place or places shall be re-examined for gas, before men are allowed to return to work. When open lights are used the working place or places must be examined for gas after blasting before men are allowed to return to work.

Section 47. That Section 1701 of the Code of Alabama be amended to read as follows: 1701. WHEN PERSON CAN RETURN TO MISSED SHOT.—No person shall return to a missed shot, if lighted with a squib, until 10 minutes have elapsed from the time of lighting the same, or if lighted with fuse until six hours have elapsed; and no person shall return to a missed shot when the firing is done by electricity unless the wires are disconnected from the battery, and the end of wires short-circuited by twisting together.

Section 48. That Section 1702 of the Code of Alabama be amended to read as follows: 1702. REGULATION AS TO

**OPENING POWDER.**—Whenever a workman is about to open a box or can containing powder or other explosives and while handling the same, if open lights are used, he shall place his lamp at least five feet distant from said explosive, and in such position that the air current cannot convey sparks to it, and no person shall knowingly approach nearer than ten feet to any open box containing an open can of powder or other explosive with an open lighted lamp, lighted pipe, matches, or any thing containing fire. No miner, workman, or other person shall open any keg, can or other container of blasting powder with any pick, wedge, tool, or in any manner except by the means of opening of the same provided by the manufacturer thereof; and it shall be unlawful and a violation of this article for any person to have in his possession in any mine any can or other container of blasting powder, which has been opened in violation of this article.

Section 49. That Section 1703 of the Code of Alabama be amended to read as follows: 1703. **REGULATION AS TO KEEPING EXPLOSIVE IN MINE.**—Every person who has powder or other explosives in a coal mine shall keep same in a wooden box with hinged lid, and said box shall be kept not less than six feet from track, and not less than six feet and on opposite side from electric wires, and not less than 75 feet from any working face. Explosives and detonators shall be stored separately and at least 10 feet apart.

Section 50. That Section 1710 of the Code of Alabama be amended to read as follows: 1710. **CHECK WEIGHMAN MAY BE FURNISHED BY MINERS.—DUTIES OF.**—In all coal mines the miners employed and working therein may furnish a check weighman, who shall, at all times, have full access to and the right to examine the scales, and to see all measures and weights and accounts kept of same, and shall keep an accurate account of the coal, but not more than the above authorized persons shall have such right of access, examination and inspection of scales, measures and accounts at the same time. The weighman and check weighman shall properly test the scales with U. S. Standard test weights before coal is weighed thereon.

Section 51. That Section 1716 of the Code of Alabama be amended to read as follows: 1716. **LIGHTED PIPE, ETC., NOT ALLOWED IN STABLES.**—It shall be unlawful for any person to take matches, a lighted pipe or any thing containing fire, except lanterns, as provided for in the preceding section into any stable in any coal mine in this State.

Section 52. That Section 1719 of the Code of Alabama be amended to read as follows: 1719. **FOR REGULATING THE USE OF ELECTRICITY IN COAL MINES IN ALABAMA.**—Rule 1. **TRANSFORMERS—INSTALLATION.** All mines in this State using A. C. current under ground shall construct and

maintain fire proof room in which to install transformers, and connecting with return airway direct to surface. All wires leading to said transformers shall be properly and sufficiently insulated for the protection of persons or animals coming in contact therewith. Transformers shall be constructed with automatic cut-outs in case of short-circuiting. Rule 2. PROTECTION OF WIRES. All wires carrying electric current passing through curtains or inflammable material shall be properly protected so as not to ignite said curtains or inflammable material. Rule 3. WIRES VOLTAGE—PROTECTION. All trolley wire carrying 220 volts or more, and less than six ft. six inches above top of rail, must be guarded at all points under which men and animals are required to pass and, regardless of height, at stations designated for the loading and unloading of man-trips and at sand-boxes. Rule 4. MOTOR GENERATOR SETS. TRANSFORMERS.—The operator of every mine where motor generator sets or transformers are installed underground shall designate, or cause to be designated, on the map provided for by the Mining Law, the location of transformer stations and motor generator stations. At each of the above said stations a sufficient amount of sand, not less than one-half ( $\frac{1}{2}$ ) cubic yard, shall be kept in a suitable place convenient to said motor generator station and transformer stations for the purpose of extinguishing any fire starting from short circuiting or otherwise. In addition thereto one permissible chemical fire extinguisher shall be kept in a convenient place. Rule 5. POWER CIRCUITS.—Power circuits entering the mine must be protected against lightning by lightning arresters at all points of entrance to the mine. Rule 6. SIGNAL WIRES.—Signal wires shall be run at a safe distance and where possible placed on side of slope or heading away from other circuits. Rule 7. BLASTING OFF POWER CIRCUITS.—No lighting or power circuits in the mines shall be used for firing shots except in sinking shafts or rock slopes, and then only when a special switch for such firing circuit is provided and fixed in a locked box accessible only to the authorized shot firers.

Section 53. That Section 1724 of the Code of Alabama be amended to read as follows: 1724. WOMAN OR BOY UNDER EIGHTEEN NOT TO WORK IN OR ABOUT MINES.—No woman of any age and no boy under the age of eighteen shall be employed to work or labor in or about any coal mine in this State.

Approved July 17, 1935.

## AN ACT

To Provide For The General Revenue Of The State Of Alabama.

## ARTICLE I.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That whenever the terms mentioned in this Section are employed in this Act, they are employed in the following sense: (a) The term "Property" includes real and personal property. (b) The term "Real Property" shall be held to mean and include not only land, city, town and village lots, but also all other things thereunto pertaining, and all structures, and all other things so annexed or attached thereto as to pass to a vendee by the conveyance of the land or lot. (c) The term "Personal Property" shall be held to mean and include all things other than real property, which have any pecuniary value, investment in bonds, stocks, joint stock companies, or otherwise. Provided that mechanical refrigerators, electric or gas or other stoves, or heaters, heatrolas and similar heaters, gasoline pumps or fillers and tanks, shall be classed as personal property and shall be assessed as personal property, however attached to the building in which they are kept. (d) The term "Money" or "Moneys" shall be held to mean and include gold, silver and other coin, bills of exchange, bank bills, or other bills or notes authorized to be circulated as money, whether in possession, or on deposit subject to draft of the depositor, or the person having beneficial interest therein, on demand. (e) The term "Improvements" includes all buildings, structures, walls, fences, and any other thing erected upon or affixed to the land. (f) The term "Credit" includes every claim and demand for money, labor, merchandise, or other valuable thing. (g) The term "Person" or "Party" or other word or words importing the singular number shall be held to include firms, partnerships, companies, associations, corporations, trustees and receivers, and all words in the plural number shall apply to single individuals in all cases in which the spirit and intent of this Act require it; and all words importing the masculine gender shall also apply to females; and all words importing the present tense shall also apply to the future. (h) The term "Merchant" as used in this Act also includes all persons, co-partnerships, trustees, receivers or corporations engaged in trading or dealing in any kind of goods, wares, merchandise, either on land or in steam-boats, wharfboats, or other craft stationed or plying on the waters of this State, whether such goods or merchandise be kept on hand for sale, or the same be purchased and delivered for profit as

ordered. (i) The term "Value" means the fair and reasonable market value of the taxable property, and shall be estimated at the price at which the property would bring at a fair voluntary sale.

Section 2. PERSONS AND PROPERTY. The following property and persons shall be exempt from ad valorem taxation and none other: (a) All bonds of the United States and this State, And all county and municipal bonds issued by counties and municipalities in this State, all property, real and personal, of the United States and this State, and of county and municipal corporations in this State; all cemeteries; all property, real and personal, used exclusively for religious worship, for schools or for purposes purely charitable; provided, however, property, real or personal, owned by any educational, religious or charitable institution, society or corporation, let for rent or hire or for use for business purposes, shall not be exempt from taxation, notwithstanding the income from such property shall be used exclusively for educational, religious or charitable purposes; all mortgages, together with the notes, debts, and credits secured thereby on real and personal property situated in this State, which mortgages, have been filed for record and the privilege tax paid thereon; all money on deposit in any bank or banking institution and all other solvent credits; all warrants issued by county boards of education and city boards of education for the purpose of erecting, repairing, furnishing school buildings or for other school purposes, are exempt from taxation. (b)—(1) All property, real or personal, used exclusively for hospital purposes, to the amount of twenty thousand dollars, where such hospitals maintain wards for charity patients, or gives treatment to such patients, provided that the treatment of charity patients constitutes at least 15% of the business of such hospital; provided further that such hospital need not be assessed for taxation if the owner or manager shall file with the County Tax Assessor wherein such hospital is located within the time allowed for assessing such property for taxation a certificate that such hospital has done 15% charity work in the preceding tax year; and further provided that such hospital through its owner or manager shall have until the expiration of the preceding tax year to class its work and ascertain whether or not such hospital has done 15% of its total treatment of patients as charity work. (b)—(2) That the shares of the capital stock of any corporation owning and operating a hospital, to the extent of twenty thousand dollars (\$20,000.00) in value, be and the same are exempt from taxation, provided that said corporation maintain wards for charity patients and give treatment to such patients, which treatment constitutes at least 15% of the business of the hospitals of said corporations; and provided further that it is the purpose of this Act to

afford to incorporated hospitals tax exemptions equal to those granted to individuals, firms or associations under Subdivision A-1 of Section 2 of the General Revenue Bill of 1923, approved August 22, 1923; and that the total exemption granted to any such corporation shall not exceed twenty thousand dollars (\$20,000.00) taking into consideration its real and personal property and the value of its shares of capital stock. (c) All property owned by the American Legion or by Veterans of Foreign Wars, or any Post thereof, provided that such property is used and occupied exclusively by said organization. (d) All the property of literary and scientific institutions and literary societies, when employed or used in the regular business of such institution. (e) The libraries of ministers of the gospel, and all libraries other than those of a professional character, and all religious books kept for sale by ministers of the gospel and colporteurs. (f) The property of deaf mutes and insane and blind persons to the extent of Two Thousand Dollars (\$2,000.00). (g) From poll tax, all persons permanently disabled whose taxable property does not exceed five hundred dollars. (h) All family portraits. (i) All cotton or agricultural products which have been raised or grown in the State of Alabama, and which shall remain in the hands of the producer thereof, or his landlord, or in the hands of a co-operative association for all time, and for a period of one year in the hands of the purchaser or the manufacturer. (j) Provisions and supplies on hand for the current year for the use of the family and the making of the crops; all wearing apparel, farming tools to the value of one hundred dollars; tools and implements of mechanics to the value of one hundred dollars; and the following property to be selected by the head of each family; namely, two mules or two horses, two cows, two calves, ten hogs, twenty sheep, twenty goats, household and kitchen furniture not to exceed in the aggregate two hundred and fifty dollars and one sewing machine. (k) No license or taxation of any character, except franchise taxes provided by Section 229, of the Constitution of the State of Alabama, shall be collected or required to be paid to the State, or any county or municipality therein, by any State or county fair, agricultural association, stock, kennel or poultry show, athletic stadiums owned and controlled by universities, schools or colleges, and which are used exclusively for the purpose of promoting intercollegiate or inter-school athletics. Provided that the revenue received from athletic stadiums, when admission is charged shall be used for the benefit of athletic associations of such universities, colleges or schools. And provided, further, that nothing contained in this sub-division shall be construed to prohibit any municipality, county or State, from imposing any license tax upon or for the privilege of engaging in the business of supplying services for hire or reward, or selling commodities

other than live stock, farm products or farm implements, or conducting or operating devices or games of skill or amusements or other games or devices, or conducting or operating shows, displays or exhibits other than shows, displays, or exhibits of agricultural implements, farm products, live stock and athletic prowess. (l) All raw material, including coke, produced during the current calendar year, when stocked at any plant or furnace, for manufacturing purposes in Alabama. (m) All manufactured articles, including pig iron, in the hands of the producer or manufacturer thereof, shall be exempt from taxation for twelve months after its production or manufacture. (n) All property both real and personal owned by any unit or organization of the Alabama National Guard, officially recognized as such by the Federal Government and organized and maintained by the State, and all property owned by others and used exclusively by and kept exclusively in the possession of any such unit or organization of the Alabama National Guard, the annual rent or hire of which is not in excess of the annual State, county and municipal taxes on said property shall be and is hereby exempted from taxation by the State, and the county and municipality in which the same may be situated. (o) All poultry raised or kept by any person and of value not more than \$100.00.

Section 3. For the purpose of encouraging the building, extending, and operation of factories for the spinning of thread and yarns, and the knitting and weaving of cloth and other fabrics of cotton and wool, and rayon and silk, in this State, and plants for the purpose of building ships, and factories for the manufacture of bags, wood pulp products, glass factories, ceramic factories, enameling factories and silica processing industries, paper, paper bags and other pulp products, wooden cabinets, and farm implements or mining of gold and graphite, or any other manufactured products, and plants or factories for making and manufacturing condensed and evaporated milk, or either, and other milk products, and plants or factories for making and manufacturing cheese and other milk products, and creameries and milk cooling stations, or any other industry located within five miles of a rehabilitation colony sponsored by the Rehabilitation Administration of the Federal Government for the purpose of furnishing employment to the families thus rehabilitated, the Court of County Commissioners, or other Court or board having like jurisdiction of any County, and the constituted authorities of any city or town in which it is proposed to locate, or add to, or to extend any such factories or plants, are authorized and empowered to remit the taxes assessed for all county and municipal purposes, except for county school and school district purposes, on such factories or plants and on all extensions or additions to such factory or plant as are already built and operated, and on all plants, works, machinery and other equip-



ment of such factories or plants, or additions thereto, or extensions thereof, and also on all of the capital stock of such factories and plants, or increase of such capital stock made for the purpose of making the additions thereto or extensions thereof for a period not exceeding ten years from the date of the incorporation or organization of such factories or plants, if incorporated and organized under the laws of the State of Alabama, or for a period not exceeding ten years from the date of being granted permission to do business in the State of Alabama, if a foreign corporation, or from the date of completion of such plant or factory, or from the date of the completion of such addition or extension thereof. Provided, however, that all exemptions and remissions above provided may be granted for a period not exceeding ten years when granted to or in connection with the factories or plants, or additions thereto, or extension thereof, for the manufacture or production of pulp, paper, paper bags and other pulp products, and plants for the purpose of building ships. Provided that the period of the foregoing exemptions shall not be extended, renewed or in any way added thereto, because of any reincorporation, or reorganization of the original corporation, or the sale of the assets to a different person, firm or corporation. Provided nothing herein shall authorize the exemption of the land on which such factories or plants are located or proposed to be located. (a) In order to obtain the benefit of the exemptions from County and City taxation above provided, a person, firm or corporation owning or controlling such factory, factories, plant or plants must make application in writing to the Court of County Commissioners, or Court or Board of like jurisdiction of the County, and/or to the constituted authorities of the City or Town in which it is proposed to locate the same, giving the location thereof, the date of incorporation or organization of the corporation making the application, if a domestic corporation, and if a foreign corporation, giving the location thereof and the date on which such corporation was granted permission to do business in Alabama, or if not a corporation giving the date on which construction of such factory or plant was actually begun, and praying for an order to be made by them granting such person, firm or corporation the exemption provided in the preceding paragraphs of this section, which application, if granted, shall be entered on the minutes of the Court of County Commissioners, or Court or Board of like jurisdiction, and on the Minutes of the city or town in which said factory or plant is located, and designating the time when such exemption shall expire, but all such property must be returned to the State for Taxation unless exempted by law therefrom. (b) The exemption granted to any factory or plant becoming entitled to its enjoyment, and as to the capital stock thereof, shall cease whenever the operation of such factory or plant for the purpose of its construction shall be abandoned. Provided

that where such plant is not operated for a consecutive period of twelve months, such fact shall be prima facie evidence of such abandonment. (c) That for the purpose of developing a market for Alabama pine and other trees and the products thereof, and of encouraging the construction, extension and operation of factories and plants for the manufacture or production of pulp, paper, paper bags and other pulp products, or the mining of gold and graphite, and of encouraging the construction, extension, and operation of plants for the purpose of building ships in the State of Alabama, and for the purpose of encouraging the erection and operation of glass factories, ceramic factories, enameling factories, and silica processing industries; farm implement factories and plants or factories for making or manufacturing condensed or evaporated milk and other milk products, including cheese, and creameries and milk cooling stations, or any other industry located within five miles of a rehabilitation colony sponsored by the Rehabilitation Administration of the Federal Government for the purpose of furnishing employment to the families thus rehabilitated, the State Tax Commission, or other commission or board of the State having like jurisdiction, is hereby authorized and empowered to exempt from all ad valorem taxes for State purposes, and to remit any and all such taxes which are, or may be assessed thereon, each such factory and plant, and extension thereof or additions thereto, including the works, machinery and all other equipment constituting a part of, or used in connection with, any such factory or plant, or extension thereof or addition thereto, for a period of not exceeding ten years from the date of completion of such factory or plant, or extensions thereof, or additions thereto, but in no event the land on which such plant or factory shall be located. Provided that said exemption and remission shall not apply to property which, at the time of the passage of this Act, constitutes any factory, mill or plant, already erected or constructed within the State at the time of the passage of this Act. Provided, however, that if after the passage of this act any existing factory, mill, or plant, or the owner thereof, shall erect or construct any addition, extension or betterment, or shall complete the construction of any addition, extension or betterment whensoever begun, or shall erect or construct another or additional unit, or units, whensoever begun, to such existing factory or plant, involving an expenditure, of an amount not less than \$50,000.00 within any twelve months period, in constructing and equipping such extension, betterment, unit or addition within the State of Alabama, including the works, machinery and all other equipment constituting a part of, or used in connection with, such extension, unit, betterment, or addition, the exemption and remittance provided for in this Act shall apply to so much of said extension, addition or betterment, and additional units erected, constructed or completed, after the passage of

this Act, including the works, machinery and other equipment constituting a part of or used in connection with the same. In order to obtain the benefits of the exemption and remittance provided for in this sub-section, the person, firm or corporation owning or controlling, or proposing to own or control, any such factory or plant must make application in writing to the State Tax Commission, or other commission or board of the State having like jurisdiction, stating, in the case of a corporation, the date and place of incorporation or organization and the location of the principal place of business in the State of the applicant; in the case of a person, the name and address of the applicant; and, in the case of a partnership, the names and addresses of the partners composing the applicant. In all cases the application shall also state the location and a general description of the factory or plant, or extension thereof, or addition thereto, or the proposed factory, or plant, or the proposed extension thereof, or addition thereto, as the case may be, and pray for an order to be made by the State Tax Commission, or other commission or board of the State having like jurisdiction, granting such applicant, his, its or their successors and assigns, the exemption and remittance provided for in this section, which application, after having been granted, shall be entered on the records of the State Tax Commission, or other Commission or Board of the State having like jurisdiction, and an order made allowing and granting such exemption and remission and designating the date upon which the same shall expire. If at any time the operation of such plant or factory shall cease for a period of six consecutive calendar months, then and in that event, the exemption and remission so granted shall immediately cease and be of no further effect; provided, however, that should such operation be resumed at any time thereafter, the State Tax Commission, or other commission or board of the State having like jurisdiction, may in its discretion grant a new period of exemption and remission, but in no event shall the total period or periods of exemption and remission exceed ten years.

Section 4. All real and personal property, except lands upon which located, of factories of plants, manufacturing calcium cyanamid (lime nitrogen), aluminum or aluminum products, shall be exempt from state, county and municipal taxation for ten (10) years after the beginning of the construction of such plant or factory.

Section 5. The capital stock and physical property of all corporations and the physical property of any person, which said capital stock and physical property consists entirely of an artesian well or wells, and equipment pertaining thereto, which well or wells are leased to any municipality of this State under a lease sale contract or option agreement to purchase, shall, during the life of such lease sale contract or option agreement, be exempt

from ad valorem taxation so long as such well or wells are operated exclusively by such city or town; provided that this act shall apply only to corporations or persons under contract with not more than one municipality.

Section 6. All taxable property within this State shall be assessed for the purpose of taxation at sixty per cent of its fair and reasonable market value.

Section 7. The rate of taxation for State purposes shall be sixty-five one-hundredths (.65) of one per cent (1%) per annum on the assessed value of the taxable property within this State.

Section 8. There is hereby levied for the purpose and upon the property hereinafter named and not specifically exempted from taxation, annual taxes, as follows, to-wit: (a) For the maintenance of the public schools of this State, thirty cents (\$.30) on each one hundred dollars (\$100.00) of the assessed value of taxable property. (b) For the relief of needy Confederate soldiers and sailors, resident citizens of Alabama, and their widows, ten cents (\$.10) on each hundred dollars (\$100.00) of the assessed value of taxable property. (c) For the use of the State and to raise revenue therefor, twenty-five cents (\$.25) on each one hundred dollars (\$100.00) of the assessed value of taxable property.

Section 9. A trial tax of three dollars (\$3.00) be, and the same is hereby imposed in each case, civil, criminal and equity, which is now pending and which hereafter goes upon the docket of any circuit court in this State, to be taxed and collected as other costs, and when collected to be paid by the clerk or register of such court as follows: One-half ( $1/2$ ) thereof into the general fund of the State Treasury, and the other one-half ( $1/2$ ) into the general funds of the county in which the same is collected and for collecting and remitting such tax, the clerk or register may retain five per cent (5%) commission thereof. In all counties in this State where the clerk or register is paid on a salary basis under constitutional authority, the five per cent (5%) commission provided for by this Act shall not be collected, but such clerk or register shall pay to the State and county respectively, each one-half of such trial tax. This trial tax fee shall not, however, be imposed or collected in cases made by any city, or town as a result of the filing by the clerk or other officer of such city or town with the Register of the Circuit Court or like officer of a court of the county having equity jurisdiction, of a list of delinquent taxpayers and property upon which city or town taxes are due as is now or may hereafter be required by law; nor shall said trial tax fee be imposed or collected in any ancillary proceedings, such as garnishment process, resulting from prior proceedings in which said trial tax fee has been imposed, and cases for municipal assessments shall not be subject to such tax, and tax cases.

## CHAPTER II

## AD VALOREM TAX.

Section 10. The subjects of taxation, except as exempted by law, shall be as follows: (a) Every piece, parcel, tract or lot of land in this State, including therein all things pertaining to such land, and all structures and other things so annexed or attached thereto as to pass to a vendee by conveyance of such land; and every separate or special interest in any land, such as mineral the right to mine minerals; timber, and the right to turpentine; oil or petroleum, natural gas and the right to remove same from the soil, or any other interests when such interests are owned by persons other than the owner of the surface or soil, except growing crops. (b) All docks, wharves, wharf-boats, landings, and warehouses, toll-bridges, ferries, canals, passes, channels, turnpikes, all street railroads, printing presses and materials. (c) All steamboats, barges, vessels and watercraft of every name and kind, however propelled, plying waters of this State and the owner thereof shall return same for taxation to the assessors in the county wherein he resides and if such steamboat, barge, vessel and watercraft, is owned by a corporation, then in that county where its principal office is located. In case of owner being an individual not residing in this State or being a corporation with no principal office in this State, then in the county or counties where used. All such steamboats, barges, vessels or watercraft whether owned by a resident or non-resident of this State, which have acquired a permanent situs in this State. All transfer boats, steamboats or barges used by any railroad in transferring cars and passengers must be assessed and taxed in the county or counties where used, or where the owner resides, regardless of where such vessel may be registered. (d) All stocks of goods, wares and merchandise, the assessment to be on the average amount on hand during the preceding year, except in cases where business is commenced on or after October 1st of a current year, and in such cases the assessment to be on the capital actually employed in the business and apportioned as hereinafter provided, but the amount so assessed for any whole year shall in no case be less than the capital actually employed in the business, and this shall include all goods, wares and merchandise kept on plantations or elsewhere, or by railroad companies or persons, for sale or to be dealt out to laborers or employees for profit, or on account of their wages, and shall include all goods, wares and merchandise offered for sale by any person commencing business subsequent to the first day of October of a current year, but in such case the tax shall be apportioned according to the date at which the business was commenced, so that if commenced after the 1st day of January the tax shall be three-

fourths ( $\frac{3}{4}$ ) of the tax for the whole year; if commenced after the first day of April the tax shall be one-half ( $\frac{1}{2}$ ) of the tax for the whole year; provided that the assessment herein provided for shall not include products raised on the farms in the hands of the original producers. If the person, association or corporation, receiver or trustee carrying on such business shall fail to make return of the amount of stock of goods, wares and merchandise as provided by law, or if the county tax assessor is not satisfied with the return made, in order to make proper assessment, he shall have the right to demand a copy of the last inventory made of such stock of goods, wares or merchandise, and may also by inquiry of persons believed to have knowledge of the subject obtain information as to the probable average amount of such stock, and from such information may assess the same upon his best judgment. (e) All household and kitchen furniture, mechanical and electrical refrigerators, libraries, jewelry, precious stones, plate and silverware, ornaments and articles of taste, pianos and other musical instruments, paintings, clocks, gold, silver and other watches and gold and other safety chains, all wagons and other vehicles; all motor cars, automobiles, trucks, busses, tractors and motorcycles and other motor vehicles, and bicycles; all outboard motors; all airplanes, airships and other aircraft, and aircraft landing fields and equipment; all typewriters; all cash registers; all calculating machines; all bookkeeping machines, teletypes, dictaphones and other recording or sending apparatus or machines; all phonographs and all machines of like character; mechanical and electrical refrigerators; all radio sending and receiving sets and appliances; all iron safes and cabinets, all store fixtures, all office furniture and fixtures; all mechanical tools and farming implements; all tanks, all storage reservoirs or basins; all golf bags, golf sticks and all other sporting goods; all pistols and guns; all cattle and horses, mules, studs, jacks and jennets; all hogs, sheep and goats, except as specifically exempted; all x-ray machines; all lense grinding machines, all eye testing machines, all surgical instruments and all other instruments or appliances used in surgical, dental, medical, optometrical or other professional work. (f) All money hoarded, whether in the custody of the owner in this State, or in another State, or in any safety deposit box, safe or vault, or elsewhere, except money on deposit in banks which is specifically exempted from taxation. (g) All investments in bonds, except bonds of the United States, the State of Alabama, and of counties and municipalities of this State, warrants or other obligations of county and city school boards in this State, and such other bonds as are not by law taxable; and all capital invested in bonds or currency which are exempt from taxation shall be liable to be taxed under this section should such capital at any time during the year be reconverted into money, bonds or property which is taxable, unless it

is made to appear that the money, bonds or property into which such reconversion may be made has been assessed for taxes for such year. (h) All road bed, track, engines, cars, derricks, cranes, signals, cross-ties, and other property, real and personal of railroads, of mining and manufacturing plants, and all tram roads, pole-roads, canals, ditches and channels used for transporting or moving mineral ore, lumber, timber, logs, minerals, coal, ore, sand, gravel or other commodities, whether raw or manufactured, which are not taxed as improvements on the land or plant or main property, of the owner of such tram-roads, pole-roads, canals, ditches or channels. (i) Shares in corporations or associations, not incorporated under the laws of this State, except stock in National Banks. In arriving at the value of shares of stock of a Corporation or Association for the purposes of taxation, whether said Corporation be domestic or foreign, all dividends earned or declared, and not distributed, shall be treated as assets of said Corporations. (j) On the gross amount of sales of goods, wares and merchandise owned by non-residents made at auction in or during the tax year preceding the assessment of goods, wares and merchandise kept in stores for sale in the ordinary course of business, each auctioneer shall be assessed and shall pay a tax of one-fourth of one per cent, and each auctioneer shall pay a like tax on the gross amount of sales made by him of goods, wares and merchandise owned by citizens of this State which have been imported into this State and sold at auction before same have been assessed for taxes as other property; but on sales of goods, wares and merchandise, and fruit by cargo at auction, the rate of taxation shall be one-eighth of one per cent. "(j)—(a) On the gross amount of commissions or sums charged and received during each year by any auctioneer, provided nothing herein contained shall be construed as levying a tax on commissions received for the sale or rental of real estate, or brokerage on loans or real estate or the underwriting of insurance." (k) All the real and personal property of water companies, including pumping stations, reservoirs, standpipes, towers, pipelines, gates, valves, tunnels, canals, and dams used in the business of supplying water to consumers for pay; all real and personal property of hydroelectric power, steam or other power and light companies; natural and manufactured gas companies and gas light companies, including all machinery, engines, dynamos, wires, poles, pipelines, tubes and appliances of every nature and description used in connection therewith; all real and personal property of every furnace, rolling mill, mine, quarry or manufacturing establishment, including all machinery, all engines, hoisting engines, derricks and appliances of every nature used in the business; all dams across rivers and creeks; all real and personal property of cotton gins, cotton mills, cotton compresses, cottonseed oil mills, grain elevators, flour and grist mills, molasses and syrup mills,

paper mills, chemical plants or manufacturies, fertilizer factories or mixing plants except calcium cyanamid plants, which are specifically exempted; all peanut oil mills and peanut mills, creosoting plants, concrete mixing plant, cross-tie plants, and stave mills and heading mills. (l) All property real and personal of all cement plants, lime plants, plaster plants, mining plants or quarries or other manufacturing, mining or quarrying plants not herein specifically exempted. (m) All property brought into the State after the first day of October and before the Assessor has completed his assessment, shall be subject to taxation the same as if it had been held or owned in the State on the first day of October. (n) All property real or personal of hydro-electric power companies, steam power companies or other power companies. (o) All other property real, personal or mixed not hereinbefore specified, of whatever class, whether ejusdem generis or not, except herein specifically exempted, which said property shall be assessed and specifically described.

Section 11. All taxes, unless otherwise provided by law shall become due and payable on the first day of October in each year, and shall become delinquent if not paid before the first day of January succeeding, except in cases when parties have moved or are about to move from the county, and except in cases when parties are closing out or going out of business, and except in cases where insolvency is impending, and except in cases where goods, wares and merchandise are advertised for sale at auction, bankrupt, insolvent, assignment or fire sales, or where said goods, wares and merchandise are advertised for sale for the satisfaction of creditors, or as closing out or going out of business sale, or in any way where a person is disposing of substantially all of his taxable property in the county, in which cases such taxes shall become due and payable at once. Advertisements in the newspapers or otherwise, of a sale of any personal property as a closing out sale, fire sale, bankrupt sale, or any sale of like character shall be prima facie evidence that the collection of taxes due on such property or any other property so advertised is endangered within the meaning of this Section. Notice to any Tax Collector by the State Tax Commission, a Tax Assessor, Deputy Tax Assessor, Tax Agent, License Inspector or any other official of this State or any county thereof, that any person is about to move a whole or any part of his personal property from this State, shall be prima facie evidence that the collection of the taxes due or to become due by said person on such property or other property is endangered and upon failure of the Tax Collector to act as provided in Section 186 of this Act, he shall be liable on his bond for any neglect to immediately collect the taxes due, by levy and sale or otherwise.

Section 12. The Tax Collectors of the several counties of the State are authorized and required to accept any moneys tendered



to them in partial payment of advalorem taxes collectible by them at any time before the sale of the properties liable therefor, provided that said payment shall be an amount not less than one-fourth of the total amount of taxes due, provided, however, that no such payment shall be made, nor shall same be accepted by the Tax Collectors, unless such payment shall amount to at least one-fourth of the total amount of taxes due on October 1st of each year hereafter. They shall credit the amount so paid first upon accrued interest and then upon the principal of the taxes owing. They shall give to the person paying the same a receipt for the amount so paid. Provided nothing herein shall be construed to postpone the payment of such taxes nor to waive any lien or right of enforcement of collection. The State Tax Commission shall prescribe the form of the receipt to be given hereunder.

Section 13. Every share of any domestic corporation, except financial institutions which comply with the provisions of this act as to excise taxes herein levied on such financial institutions "(financial institutions within the meaning of this section and as expressly exempted from the provisions hereof are hereby defined as follows: Any corporation or any legal entity whatever doing business in this state as a bank, banking association, trust company, industrial or other loan company, building and loan association, and any other corporation or institution employing money capital coming into competition with the business of National Banks)", shall be assessed and the taxes thereon collected in the county wherein such corporation has its home or chief office in the state, and shall be assessed at sixty per cent of its value to the person in whose name such shares stand on the books of the corporation and not to the corporation. Provided, however, that in the event the excise tax levied by this act upon such financial institutions be declared unconstitutional, the tender to the State Tax Commission of such excise tax despite such unconstitutionality, shall be a bar to any demand, claim, levy or assessment of any advalorem tax under this Section. The president or managing officer of every such corporation shall make out and return under oath to the Tax Assessor and to the State Tax Commission a list showing the total number of shares of capital stock of such corporation and the par value thereof, and the full name and residence of each stockholder, as far as known, the actual value thereof, the date of the last sale of shares of stock of such corporation, with the name of the seller and the purchaser and the price paid for same, and the annual dividend declared on the stock of such corporation, for the last three years, and the value of the shares as shown by the books of the corporation, and by the last report of the officers to the share holders, and the amount of the surplus, and the amount of the undivided profits not included in the surplus, and such other information as may be required by the State

Tax Commission. There shall be attached to the copy of the return made to the State Tax Commission a true balance sheet as shown by the books, showing the condition of such corporation at the close of its fiscal period next preceding October first of the year for which the assessment is to be made. Such corporations shall at the same time make a tax return sworn to by its president or manager, to the State Tax Commission and to the county tax assessor, on a form prescribed by the State Tax Commission, of all taxable property, real and personal, situated in the State and owned by such corporation, and the State Tax Commission after passing on the value of the shares of the capital stock shall fix the value of all the shares of said corporation and shall take sixty per cent thereof which shall be the assessed value of the shares of said corporation. Whenever the State Tax Commission shall have passed on the valuation and assessment of the shares of any domestic corporation as herein provided, it shall give notice in writing by registered mail, return receipt demanded, to the president or managing officer or person signing the tax return of the corporation, or if no return has been made, then such notice to be addressed to any officer of the corporation against whose shares the assessment has been made, giving notice of the valuation and assessment, stating that on a day specified, it will meet and determine any complaint against said valuation, which notice must be served at least ten days before the day specified for a final determination of the assessment. Upon hearing the complaint of protest against any valuation or assessment of the shares of the domestic corporation or if there has been no complaint or objection filed on or before the date specified in the notice for the determination of such matter, the State Tax Commission shall proceed to determine and fix the value of such shares and complete the assessment thereof. After the assessed value of all the shares has been passed on and determined the State Tax Commission shall deduct from the total value of such shares the assessed value of the real and personal property of the corporation as shown by such tax return by the corporation or finally determined and the value of the residue remaining after deducting the assessed value of the real and personal property as finally determined shall constitute the assessment against the shares of such corporation, and such residue divided by the whole number of shares shall constitute the assessment of each share for taxation. Provided, however, that should the assessed value of the real and personal property as shown by such tax return differ from the assessed value of the real and personal property as finally determined by the taxing authorities required to assess such property or in case of appeal, as finally determined by the court of last resort, the same shall not affect the assessed value of all of the shares of the corporation as fixed by the State Tax Commission. It

being the meaning and intent of this statute that the assessed value of all the shares of the corporation be fixed by the State Tax Commission and that there be deducted therefrom the correct assessed value of the real and personal property of the corporation when the same shall finally be determined. Provided, however, that if any property owned by a corporation which property is subject to taxation in this State is omitted from the tax return filed by said corporation, the same shall be assessed as an escape item or items of taxation in the same manner as escaped property of individuals and the value of such omitted property shall not be deducted from the value of the shares of stock of the corporation as assessed for taxation. In arriving at the value of the shares of the stock a corporation organized under the laws of Alabama for the purpose of conducting an insurance business, there shall be deducted from the value of such shares, in addition to the assessed value of its property, the amount of its bonds of the State of Alabama, or bonds of any county or municipality thereof, and of the United States, held by such insurance company during all the six months preceding such assessment. If the aggregate assessed value of the shares does not exceed the aggregate assessed value of the real and personal property of the corporation, then no tax shall be demanded or collected on the shares. Provided Further that any corporation within the provisions of this section shall be entitled, for the purpose of arriving at the value of its shares for taxation, to have deducted from the value of its shares as fixed by the State Tax Commission the assessed value of property owned in other states or amount of assessment of property made by it in other counties of this State on the next preceding first day of October. The State Tax Commission and Tax Assessor shall have a right to demand and receive of said corporation a certified copy of assessment of any property outside of the State of Alabama sought to be deducted as above provided. It shall be no ground for objection to such assessment of shares that the same is entered upon the assessment book in the name of the corporation. Provided that no share-holder of any corporation which actually pays a tax on its franchise or intangible property shall be liable for the taxes specified in this Section as to the same property. When the assessment of all the shares herein provided shall have been made final the State Tax Commission shall deliver the said final assessment to the tax assessor and shall send a copy to the president or managing officer of the corporation whose shares have been assessed.

Section 14. If the owner or owners of any share or shares of any domestic corporation, the shares of which are required to be taxed by the State Tax Commission is dissatisfied with the final assessment as fixed by the State Tax Commission, he, or it, may appeal from said final assessment made by the State Tax Com-

mission to a Circuit Court, sitting in Equity, as provided in this Act for appeals from assessment made by the State Tax Commission. Provided also that the corporation the shares of which have been assessed shall have the right to take the appeal as herein provided in behalf of the shareholder.

Section 15. The reports required from corporations by the preceding sections shall be made on blanks furnished by the State Tax Commission. The failure of corporations to make the reports required herein for the assessment of Ad Valorem taxation, on or before the first Monday in February of the year for which the tax is to be assessed shall subject such corporation to a penalty of Five Dollars (\$5.00) per day for each days delinquency, which penalty may be collected by suit in the name of the State. The penalty may be remitted at the discretion of the State Tax Commission.

Section 16. All blank forms covering the assessment of corporations shall be furnished by the State Tax Commission, the payment for such blanks is to be made by the State Comptroller out of the general appropriation for public printing.

Section 17. If a corporation by endorsement on its tax assessment or otherwise in writing, shall agree to pay the taxes, if any, assessed on the shares for the shareholders, it need not file a list of such shareholders.

Section 18. The provisions of the foregoing sections applying to taxation of shares of domestic corporations shall not apply to corporations excepted therefrom by law or by this Act.

Section 19 (a) The term of office of all county tax assessors and all county tax collectors shall be for four years beginning October 1st, 1935; the incumbent to hold office until his successor is elected and qualified. (b) There shall be elected at the general election in November, 1938 and every four years thereafter, a tax assessor and a tax collector for each county in the State, who shall perform such duties as are prescribed by this Act, or as may now, or hereafter be provided by law; and whose term of office shall be four years beginning October 1, 1939.

Section 20. The Tax Assessor in every county in the State of Alabama shall, before entering upon the discharge of the duties of his office as Tax Assessor, execute in triplicate a bond in the sum of not less than \$5,000.00. Such bonds shall be payable to the State of Alabama, with sufficient surety or sureties to be approved by the Judge of Probate, and conditioned faithfully to discharge the duties of his office, which are, or may be required by law during the time he continues therein, or discharges any of the duties thereof. One of such duplicates must be filed and recorded in the office of the Judge of Probate, and the other must be filed in the office of the State Comptroller on or before September first after his election. The cost of the bond required herein, if made

by a surety company, shall be paid out of the general fund of the county on warrant of the Court of County Commissioners, or court of like jurisdiction, and the same shall be preferred claim against the County.

Section 21. The Tax Assessor in each County in Alabama shall also, before entering upon the discharge of the duties of his office, file in the office of the Judge of Probate of his county an oath in writing that he will faithfully and diligently discharge all the duties which are, or may be imposed upon him by law, and such oath must also be recorded.

Section 22. TAX ASSESSORS COMMISSIONS. The tax assessor shall, during the current term of the present incumbent of said office be paid commissions as now provided by law, after the expiration of the present term of the present incumbent of the office of tax assessor, the tax assessor shall be entitled to receive from the tax collector, out of the first money collected by him, giving him duplicate receipts therefor, one of which receipts shall be forwarded to the State Comptroller by the tax collector, the following commissions, to-wit: In counties where the collections, not including taxes on real estate bid in at tax sales by the State, do not exceed twelve thousand dollars, the rate of commission shall be eight percent on the first thousand dollars, four percent on the second thousand dollars, and two per cent on the remainder. In counties where collections, not including taxes on property bid in at tax sales by the State, exceed twelve thousand dollars, the commission shall be as above declared up to twelve thousand dollars, and one and one-half percent of the remainder up to sixty thousand dollars, and on all above sixty thousand dollars, one percent. He shall also be entitled to receive two per cent on all collections made by the tax collector of special taxes, whether such special taxes be levied for the State or County, to be paid out of such special taxes. The tax assessor shall receive two percent commissions on all special county or district taxes levied for school purposes; but he shall not receive such commissions on such special school taxes unless he has properly apportioned such special taxes. In counties of more than one hundred and fifty thousand population according to the last Federal Census, or any subsequent Federal census, no fees or commissions shall be allowed for assessing the three mill county school tax, and the three mill district school tax, but in lieu thereof the tax assessor in such counties shall be paid by the collector of such county the sum of one thousand dollars, which is provided by law to be retained by the tax collector for the tax assessor.

Section 23. The fees, compensation and earnings of the Tax Assessor allowed under the revenue laws of the State, shall not together with all other fees, compensations, allowance, and earnings to them, exceed Five Thousand Four Hundred Dollars

(\$5400.00), net annually. Provided that after the term of office beginning with the first of October, 1935, expires, then the fees, compensation and earnings of the Tax Assessor allowed under the revenue laws of the State, shall not together with all other fees, compensations, allowances, and earnings to them, exceed four thousand dollars (\$4000.00) net annually. After the payment of the salaries for clerks, typists, stenographers, and other office expenses in Counties where the Tax Assessor is not paid a fixed salary; and the expenses of the office in such counties for clerks, typists, stenographers, and other expenses shall not exceed in counties having a population according to the Federal census as follows: 10 to 30 thousand \$100.00 per month. 30 to 40 thousand \$150.00 per month. 40 to 50 thousand \$250.00 per month. 50 to 65 thousand \$350.00 per month. 65 to 85 thousand \$500.00 per month. 85 to 110 thousand \$750.00 per month. 110 to 125 thousand \$1200.00 per month. 125 to 500 thousand \$2500.00 per month.

Section 23-A. In such Counties where the earnings from all sources exceed the expenses and compensation to the Tax Assessor allowed in the above Section, the excess thereof shall not accrue to the Tax Assessor but shall accrue to the general fund of the County, and shall by the Tax Assessor be paid over to the County Treasurer and by him covered into the General Fund of the County.

Section 24. The Tax Assessor shall not receive commissions on errors made in assessments, on abatements or deductions from assessments allowed the taxpayer, nor on taxes on real estate bid in by the State at Tax sales, nor shall he, after the abstract book has been turned over to the Tax Collector receive commissions on any assessment to which an objection by the taxpayer, regularly entered, may then be pending, until such objection has been disposed of and proper assessment ascertained and determined.

Section 25. For making the demand on the taxpayer for his list of property to be returned, and for each return of property to 'owner unknown', to be charged to the taxpayer or property assessed, and collected with the taxes, the assessor shall be entitled to fifty cents, to be entered upon the return and assessment. But the assessor shall be entitled to only one demand fee against each taxpayer. For serving each subpoena for State witnesses or notice issued by order of the State Tax Commission or board of review, the assessor shall be entitled to receive twenty-five cents (\$.25) to be taxed against the taxpayer and collected with the taxes, if the case made against such taxpayer be sustained; otherwise, he shall receive no fees for the serving of such subpoena.

Section 26. The Tax Assessor is authorized to appoint deputies, and the acts of such deputies shall be recognized as his acts, and he shall be responsible for any loss sustained by any taxpayer or by the State or County, by reason of any unlawful act done by

any such deputies. Such deputies shall receive no compensation for their services out of the State or County revenue, except in cases otherwise provided by law.

Section 27. It is the duty of the Assessor to have printed, at the expense of the County, a sufficient number of assessment blank forms in the form furnished and prepared by the State Tax Commission, and upon request of any taxpayer, or State Deputy Tax Assessor the Assessor shall furnish him with a copy or copies for the use of such taxpayer in listing his property for taxation. Said blank forms when filled out and returned to the Tax Assessor shall be known as the "tax return." Upon demand of any person making a return of property for taxation, the Assessor shall furnish him with a copy of such return.

Section 28. It shall the duty of the courts of county commissioners or boards of revenue of the several counties in this State to supply the Tax Assessor, Tax Collector and such other tax officials or agents whose duty it is to assess and value property for taxation under this Article, with all necessary books, stationery and printed blanks for the proper conduct of their several offices.

Section 29. The return and listing of property, for taxation by the Tax Assessor must commence on the first day of October in every year, and shall be finished by him on the first day of January following; but the Assessor may be allowed through the third Monday in January in each year to make a supplemental return or list of property which he may have failed to have returned or listed prior to the first day of January, and such supplemental return must be entered as any other return and shall be embraced in the abstracts made for the Comptroller and Collector and State Tax Commission.

Section 30. Between the first day of October and the first day of January of each year, the Tax Assessor shall in all counties having a population of one hundred thousand or less, visit each voting place in each precinct for the purpose of listing property for taxation, and he shall remain there one day in all county precincts and towns of less than one thousand inhabitants, from eight o'clock A.M. until four o'clock P.M. In towns other than county seats, of five thousand inhabitants or more, he shall remain at each place of appointment for one week, either by himself or deputy. In places of one thousand inhabitants and not over five thousand, he shall remain at the place of appointment for three days, either by himself or deputy. The Assessor shall give at least ten days notice by advertisement in a newspaper, if there be one published in the county, and by bill posted at five or more public places in each election precinct, of the time when he will attend to receive the tax returns. Upon the failure of the Tax Assessor to give the notice required by this Section, or to attend any appointment made

by him in any precinct, he shall after legal notice, fill new appointments, or forfeit all claims to fees from such persons in such precinct as were disappointed by his non-attendance. He shall keep the office open at the court house all the year round. Provided, that the Court of County Commissioners or court of like jurisdiction, may by order duly entered on its minutes as other orders and decrees of the court are entered, relieve the Tax Assessor from making visits to each voting place in each precinct as above provided, when in the opinion of the court it is deemed advisable.

Section 31. It is the duty of every person in every election precinct to attend in person before the Assessor on the first day of the appointment in the precinct of the taxpayer's residence, and then and there render to the Assessor under oath a full and complete list of all property of which he was owner, or in which he had any interest whatever, or of which he was trustee or agent on the first day of October of that year, and to enter upon such paper the amount of fire insurance carried upon any of the property so listed. The land and improvements thereon must be separately listed. On failure of the taxpayer for thirty days after demand or notice by the tax assessor, to furnish a sufficient description of his real estate, said tax assessor shall secure such description from the records of conveyance in the office of the probate court of his county, and if he is unable to get a sufficient description from such records, then by a survey of property by the county surveyor or otherwise, and the reasonable expenses incident thereto shall be allowed by the commissioners court or board of revenue, and paid out of the general fund of the county wherein the property involved is located, and such amount as is allowed shall be added as costs to the taxes assessed against such taxpayer, and when collected shall be covered into the general fund of the county.

Section 32. The Tax Assessor or his deputy, or any other officer administering the oath to the person making the return of property for taxation, must orally administer the following oaths to every taxpayer before making his returns: "You do solemnly swear that you will true answers make to all lawful questions which may be put to you touching the return you are about to make, and that you will make a full and complete return of all property owned by you, or in which you had any interest whatever or of which you were trustee or agent on the first day of October of the present tax year, and that you will make a full, complete and true statement of the amount of fire insurance thereon, and this return is made upon your personal knowledge, so help you God."

Section 33. After administering the foregoing oath, the Assessor, his deputy or other officer shall particularly inquire of the taxpayer as to the items of property and subjects of taxation owned



by the taxpayer and for which he is liable to be taxed, and property exempt from taxation, which shall be listed by items, in order that he may elicit from the taxpayer a complete statement of the whole amount and specified items of property, and subjects of taxation with which he should be charged for purposes of assessment and taxation, and the same shall be entered upon the proper blank, and the Tax Assessor, his deputy or other officer administering the oath, shall require the taxpayer to give an estimate of the value of each item of personal property, and the taxpayer shall, in making his returns, state how much fire insurance he carries on the improvements on his real estate, and how much fire insurance he carries on his personal property, and the names and, where known, the addresses of the companies, firms, associations, exchanges or other organizations carrying such insurance both on said improvements on real estate and said personal property, but nothing in this Act shall be construed as requiring the taxpayer to make oath as to the value of the property. Each taxpayer shall give to the Assessor his occupation and postoffice address. Provided that all property claimed exempt from taxation under the provisions of this Act shall be listed with the Tax Assessor by the taxpayer and entered on his return showing the items of property sought to be exempted and provided further that no property omitted from said return shall be exempted.

Section 34. When a taxpayer resides out of the County, or by reason of any infirmity or disability is unable to attend any of the appointments of the Assessor, or is a woman, such taxpayer may send in his or her list, duly sworn to by any other person or by mail, postage prepaid, or such list may be rendered by an agent having knowledge of his or her taxable property, and such return shall show the amount of fire insurance carried upon any of the property so listed. The land and the improvements thereon must be separately listed. Any person who knowingly subscribes to a list of property which is false is guilty of a misdemeanor and shall upon conviction be subject to a fine of not more than five hundred dollars and may also be imprisoned in the county jail or sentenced to hard labor for not more than six months.

Section 35. Each person making return of property for assessment shall, after the same shall have been listed and the amount of fire insurance carried thereon stated, make and subscribe to the following oath, which shall be printed or written at the bottom of the assessment sheet, and which may be administered by the Tax Assessor, his deputy or any other officer authorized by law to administer oaths: "I do solemnly swear that the foregoing list of property returned by me (if not his own property, here state the capacity in which he returns such property for assessment) is a full and complete return of all the property owned by (here state 'me' if the property returned is his own

property, and if not his own property, state the name of the person, corporation or estate for whom the property is returned), or in which (here designate the owner for whom return is made) had any interest whatever, the situs of which for taxation, or exemption from taxation, is in this county, on the first of October of the present tax year, and that the statement of the amount of fire insurance carried thereon is correct, and that the names and, where known, the addresses of the companies, firms, associations, exchanges or other organizations carrying such insurance are correct to my personal knowledge, and of the improvements on lands listed in the foregoing schedule, so help me God".\_\_\_\_\_

(Person giving in list will sign here)\_\_\_\_\_

Subscribed and sworn to before me this the\_\_\_\_\_ day of\_\_\_\_\_

(Officers will sign here)\_\_\_\_\_ (Give name and style of office here)\_\_\_\_\_.

Section 36. Commission merchants and all persons trading and dealing on commission, assignees and consignees authorized to sell, and persons having in their possession goods, wares or merchandise belonging to another, and subject to taxation in any county, city or town in Alabama, where said property is located, when the owner of the property does not reside in the county are deemed to be owners of the property in their possession for the purpose of assessment and unless such goods, wares or merchandise have been otherwise listed for taxation the same shall be listed separately from any other goods, wares or merchandise owned by such person, firm or corporation for taxation and the name of the assignor or consignor shall be listed on the return, the same shall be assessed for taxation to the person, firm or corporation who has such goods, wares or merchandise in their possession, and in no case shall the assessment be less than sixty per cent of the fair and reasonable market value of the average amount of goods, wares and merchandise so held during the twelve months next preceding the first day of October when same are due to be assessed for taxation. In assessing such stock of goods, wares or merchandise the Assessor shall require the production of the last inventory taken and attach the same to the tax return list, and if in the judgment of the Assessor such inventory is incorrect, or if such time has elapsed since the inventory was taken that it shall have ceased to be reliable as to the value or amount thereof, he shall have the right to examine the books of the person who has the property in his possession or the property itself or use such other information as he can obtain.

Section 37. The person giving in property for taxation shall enter upon said list his estimated value of every item of personal property listed, for the information of the official or officials whose duty it is to fix the assessment valuation of taxable property, but nothing in this act shall be construed as requiring the taxpayer

to make oath as to the value of the property. It shall be the duty of the Tax Assessor to enter upon the tax return in the column provided, the next preceding year's valuation for assessment of real estate and improvements and also to note on the tax return list whether there has been any physical change, such as in improvements, etc., since the preceding year's assessment was made. Every person shall enter upon the assessment list his occupation and postoffice address.

Section 38. For the purpose of assessment, real and personal property shall be estimated at its fair and reasonable market value, according to the best judgment of the assessor, the Board of Review and Agents of the State Tax Commission can form upon information, inspection or otherwise, taking into consideration all elements or factors bearing on such value as heretofore authorized; mineral, coal, oil, gas, timber and turpentine interests when they have been severed in ownership from the soil, by sale or otherwise, shall be separately valued and assessed.

Section 39. The description of real estate may be as follows: 1. If it is an entire section, it may be described by the number of the section, township and range. 2. If it is a subdivision of a section authorized by the United States for the sale of public lands, it may be described by a designation of such subdivision, with the number of section, township and range. 3. If it is less or other than a subdivision, it may be described by metes and bounds, or in some way by which it may be known. Provided such description shall be sufficient without more to definitely locate and identify the property so listed and shall give the acreage included therein as nearly as known. 4. If it is in a city, town or village, surveyed and laid off, and a plat thereof is recorded in the office of the Judge of Probate of the County, or if a plat is accessible and if it is as a whole lot or block, it shall be described by the designation of the number thereof. 5. If it is in a part of a whole lot or block, it may be described by metes and bounds, or in some other way by which it may be known. Provided such description shall be sufficient without more to definitely locate and identify the property so listed and shall show the quantity of such land so listed. 6. If it is a tract of which the sub-division is not known to the Assessor it may be described by metes and bounds, or in some way by which it may be known. Provided such description shall be sufficient without more to definitely locate and identify the property so listed and shall show the quantity of such land so listed. 7. It shall be sufficient to describe lands to be assessed or sold for taxes by initials, abbreviations and figures. 8. Mineral, coal, oil, gas, timber and turpentine interests, when they have been so severed in ownership from the soil, or trees, by sale, or otherwise, shall be separately returned for assessment, which return shall show the land in or on which said mineral, coal,

oil, gas, timber and turpentine interest is located. 9. If the surface right only is assessed for taxation, the description of the land may be preceded or followed by the letters S. R., and if the mineral interest only is assessed, the description of the land may be preceded or followed by the letters M.R., or other notation showing the nature of the interest assessed and giving the acreage in or on which such right or rights is or are located.

Section 40. The property of every minor shall be listed by his guardian, if he has one; if he has no guardian, by his father, if living; if the father is dead, by his mother, if living. If the mother is also dead or married, by the person having it in charge; of the wife, by the husband, if living and sane, and the parties reside together; if the husband is dead or insane, or he is not living with his wife, by the wife; of any person for whose benefit the property is held in trust, by the trustee; of every deceased person, by the executor or administrator but if there be no executor or administrator, by any person having an interest in the estate of said decedent by bequest, or devise or under the laws of descent and distribution; of those whose property is in the hands of receivers, by such receivers; of every firm or body corporate, by the partner, president, principal officer or agent thereof; property in the hands or custody of any public officer or appointee of a court, by such officer or appointee; of those absent or unknown, by their agents; or by the person having it in charge; of insane or idiotic persons of full age, by their guardians, if they have any; if they have no guardian, by the person having it in charge; of the lessors of real property, by such lessors; and all persons herein required to list property for others shall list it separately from their own, and in the name of the owner thereof. And shall also as far as practicable give the residence and address of the owner, but the failure to give such residence and address shall not invalidate the assessment.

Section 41. After the thirty-first day of December in each year, the Assessor shall in person or by deputy, make a demand upon all taxpayers who have failed to make return to him for a list of their taxable property, and such demand may be made by written notice left with the taxpayer at his residence or place of business, or sent postpaid by registered mail, with return receipt demanded, to the taxpayer's last known place of residence and it shall be the duty of such taxpayer to return such list to the Assessor on or before the third Monday in January following. For making this demand the Tax Assessor shall be entitled to a fee of fifty cents to be paid by the taxpayer, which shall be added to the tax receipt and collected with the tax.

Section 42. Every person of full age and sound mind and every firm or body corporate or politic, and every trustee and receiver shall, when legally called on by the Assessor, forthwith

make a full, true and distinct statement of all real and personal property, with a correct description thereof of land and improvements, separately of which he is the owner or holder, individually, or as guardian, parent, husband, wife, trustee, administrator, executor, receiver, accounting officer, partner, agent or factor, and including all monies hoarded, held or owned on the first day of October of the current tax year, or any time preceding or succeeding the first day of October of the current year.

Section 43. It shall be a misdemeanor for any taxpayer, or attorney, or agent of any taxpayer having authority to make tax returns, to fail, neglect, or refuse on demand of the Tax Assessor to fill out or have filled out the schedule or list herein provided for, or to fail to give the information herein provided for, or to fail, refuse, or neglect to take and subscribe to the oath or affirmation required to such schedules or fail to return the same to the Assessor as prescribed by law.

Section 44. Having failed to procure on verbal or written demand from any delinquent his list of taxable property on or before the third Monday in January, the Assessor shall ascertain from inquiry or otherwise the property and other subjects of taxation upon which such person is liable to be taxed, and shall list and make return thereof upon the proper blank and note upon such returns the failure of the owner after notice to make such return and the accrual of a penalty of ten per cent of the taxes to be assessed thereon.

Section 45. Whenever the Tax Assessor shall discover that any property has escaped taxation in any assessment within five years next preceding the current year, he shall list, return and value said property for assessment for the years during which same has escaped taxation, and shall also endorse on such returns the year or years for which the property has escaped taxation, and the accrual of a penalty of ten per cent of the taxes assessed thereon for each year. The Tax Assessor shall give notice of such escape assessment by registered mail, return receipt demanded, to the owner or to the agent or attorney of such owner, notifying such person to appear before the Assessor in person, or by agent or attorney, within twenty days after such notice is given, if there be an objection to the assessment and notifying such person that if no objection is made said assessment will be made final on the twentieth day after the mailing of such notice of escape assessment. If on the date set for hearing such objection the person against whom the assessment is made fails to appear, or, if in the opinion of the Tax Assessor the assessment should not be changed and the assessment is proper, then the Tax Assessor shall make the assessment final. "The property owner if he has filed objection to such assessment, may appeal from the assessment to the Circuit Court of the County in which the property is located

within thirty days after such assessment becomes final, by giving notice in writing to the Tax Assessor and by filing a copy of such notice with the Clerk of the Circuit Court and giving bond to be approved by and filed with the Clerk of the Circuit Court to cover costs and thereafter such case shall be tried as other tax cases appealed to the Circuit Court from the Board of Review. The taxpayer or the State shall have the right to demand a trial by jury by filing a written demand therefor, within ten days (10) after the appeal is taken. Whenever any escape assessment is made final, the taxes shall immediately become due and the Assessor or Deputy Assessor shall forthwith certify the assessment to the Collector, who shall forthwith collect same, unless at the time of taking the appeal the taxpayer has executed a supersedeas bond with sufficient sureties to be approved by the Clerk of the Circuit Court in double the amount of the taxes, payable to the State of Alabama, conditioned to pay all taxes, interest and costs due the State, County or any agency or subdivision thereof."

Section 46. When any person, or any company, corporation or association, existing under the laws of this State, or under the laws of any other State or country, doing business in this State, is required to make to the Assessor returns of the gross or net receipts, or commissions of such business, and such returns are not made within the time required by law, but shall remain in default for the space of ten days thereafter, the Assessor, after notice to the party required to make such returns, or if he is absent from the County, without notice, shall upon the best information he can obtain, list and make up such returns upon the proper blank, describing the property to be assessed, as other items of property are described, noting thereon the failure of the owner after notice to make such return and the accrual of a penalty of ten per cent of the taxes to be assessed thereon.

Section 47. The Assessor shall, from information entered on the tax return list and from all other information known to him, or which he may procure, proceed to ascertain what, in his best judgment, is a fair and reasonable market value of each item of property returned by or listed to any taxpayer; provided, however, that the assessed value of any real estate or improvements as fixed for taxation for the year next preceding the then current tax year shall be prima facie the basis of the value of such property for assessment for the current tax year and such property shall not be assessed for taxation at a less valuation unless upon evidence submitted to the Board of Review, as provided for herein, it is found that the assessed valuation of the property reviewed should be reduced; and the Assessor shall in separate columns, enter on such list such amount and value, and deduction for exemption to which such taxpayer is entitled; and the Tax Assessor shall also add to such list any item of property subject to taxation, owned by such

taxpayer, or in which he has any interest whatever and which he had failed or omitted to place on such list; and the taxpayer shall be given notice by the Assessor, by registered mail, return receipt, demanded, or in person, of the items of property added to his assessment list after such list has been filed and before the Tax Assessor has completed his assessment; and the Assessor shall upon demand, furnish the taxpayer with a certified copy of his assessment list so amended. In the event the value of real or personal property of any taxpayer is increased by the Board of Review, herein created, over the assessed value thereof, for the next preceding year, the taxpayer shall be furnished by registered mail, return receipt demanded, or in person, by the Secretary of the Board of Review, with a statement showing separately the value of his personal property, and his real property, and improvements thereon, such statement to be signed by the Chairman of the Board of Review, and also that such taxpayer may file in writing, with the Secretary of the Board of Review, on or before the last Monday in April, objections to any assessed valuation fixed as herein provided. But failure to give or receive the notices required in this Section shall not invalidate such assessment. Provided, however, that the taxpayer shall have the right any time before the taxes become due to appear before the Board of Review and have the assessment of his property reopened, if satisfactory proof is made that the taxpayer or his agent did not receive notice of such increase. The expense of postage incurred in carrying out the provisions of this Section shall be paid in equal proportions by the County and State, upon a certified statement thereof by the Secretary of the Board of Review, filed with the Court of County Commissioners, or the board or court of like jurisdiction and with the State Comptroller. The Tax Assessor shall be allowed twenty-five cents for each notice served as provided in this act, where the assessed valuation of any taxpayer's property is increased over the valuation as fixed for the preceding year, the same to be charged and collected as fees collected for delinquent assessments.

Section 48. The State Tax Commission or the agents or assistants thereof, may work in an advisory capacity, with the several county tax assessors of the State in the assessment and valuation of property. Any valuation fixed by the tax assessor on any property returned for taxation may be approved by the State Tax Commission, which approval, if made, must be shown on each separate return so approved. When a tax return has been so approved by the State Tax Commission, the State has no appeal from such approved assessment. The taxpayer, however, may appeal from such assessment in the same manner and within the same time as appeals are allowed from non-approved assessments. The several county tax assessors are required to keep a docket of all non-

approved assessments in such form and containing such data as may be prescribed by the State Tax Commission. Such docket shall be furnished to the assessors by the State Tax Commission. The payment for such dockets shall be made out of the general appropriation for printing.

Section 49. "That an act to amend an act approved September 13, 1923, entitled "An Act Relating to and to further provide for the revenue of the State of Alabama, by providing for the registration and identification of motor vehicles, motor tractors, jitney busses, trailers, used on the public highways of Alabama and for the registration or license fee therefor, and to further provide for the revenue of the State of Alabama," Approved June 10, 1931, which reads as follows: "Section 1. That Section 25 A of an Act, Approved September 13th, 1923, entitled "An Act relating to and to further provide for the revenue of the State of Alabama by providing for the registration and identification of motor vehicles, motor tractors, jitney busses, trailers used on the public highways of Alabama and for the registration or license fee therefor and to further provide for the revenue of the State of Alabama," be and the same is hereby amended so as to read as follows: "25 A. The State Tax Commission is hereby authorized and empowered, when it deems it necessary to do so in order that all taxable property shall be listed for taxation to appoint a Deputy Tax Assessor whose duty it shall be to list for assessment and taxation any personal property subject to taxation in Alabama and which property is not entered on any tax return made to the County Tax Assessor, or to the State Tax Commission. (A) Such Deputy Tax Assessors shall hold office only at the will of and shall be governed by rules and regulations prescribed by the State Tax Commission and shall have the same power and authority as County Tax Assessors in the performance of their duties in the assessment of personal property which has escaped taxation. (B) The Compensation of Deputy Tax Assessors appointed under this section shall not exceed 20% of the actual amount of money collected by the County Tax Collector on the Escaped personal property listed and assessed by said deputy assessors which compensation shall be paid by the County Tax Collector upon Certificate of the State Tax Commission out of the monies collected by said Tax Collector on such escape personal property assessments, the collector shall take a receipt therefor and such receipt shall be filed with the State Auditor at the time the Tax Collector makes his annual settlement and the amount shown thereon shall be a credit against such escaped tax as assessments charged against the collector. (C) Deputy Tax Assessors appointed under this section shall be required to execute a bond payable to the State of Alabama in an amount prescribed by the State Tax Commission, which bond shall be filed with and approved by said Commission, and conditioned to faith-



fully perform the duties of Deputy Assessor. (D) That in all counties of the State of Alabama having a population of 300,000 or more according to the last or any subsequent Federal Census the Deputy Tax Assessors appointed under this section shall also have authority and it shall be their duty to list for assessment and taxation any escaped improvements on real property subject to taxation in Alabama which improvements are not entered on any tax return made to the County Tax Assessors or to the State Tax Commission, and shall have the same power and authority as County Tax Assessors in the performance of their duty in the assessment of improvements on real property which have escaped taxation and shall receive the same compensation for listing and assessing or causing to be listed and assessed escaped improvements on real property as they receive for listing and assessing escaped personal property; which compensation shall be paid in the same manner in which their compensation for listing and assessing escaped personal property is paid." Be and the same is hereby expressly repealed.

Section 50. When the assessor shall have completed his work of assessing, valuing and equalizing property, which has been listed for taxation in his county and such valuation shall have been entered on the assessments lists, which shall not be later than the last Monday in February of each year, he shall certify over his signature to the correctness of the returns, showing valuations fixed by him, and he shall at once notify the State Tax Commission by registered mail, that he has completed his assessment, valuation and equalization work and that the tax returns are ready for the review and inspection as provided for in this Act. Such lists of property shall be by the assessor delivered to the Board of Review not later than the second Monday in March.

Section 51. No penalties assessed against any property owner or his property for failure to return property for taxation shall be remitted except by order of the State Tax Commission upon proof that the delinquent taxpayer was absent from the State, and had no resident agent therein during the time for making returns of property for taxation, or when such taxpayer, labors under the disabilities of minority, or is a lunatic, or upon proof made that he was unable, by reason of sickness, to make such return in time required by law.

Section 52. It shall be the duty of the judges of probate, registers in chancery, and clerks of the circuit court and city courts, or the clerks of other courts of record in this State, to notify the tax assessor of each county of the appointment of every administrator, executor, guardian, trustee, accounting officer or receiver, within thirty days after such appointment.

Section 53. Whenever the tax assessor knows or learns of any property, real or personal, subject to taxation in his county, the

owner of which he does not know, and which is not embraced in any tax return made to him or before the third Monday in January by any taxpayer, he shall list and make upon the proper blank a return describing said property according to the best information he can obtain and assess the same "owner unknown" at sixty per cent of a fair and reasonable market value, and in any notice or advertisement or motion for decree of sale it shall be described as so returned; and he shall also note the failure of the owner to make such return, and shall also note the accrual of the penalty of ten per cent of the taxes to be assessed thereon. No lands shall be returned to "owner unknown" until the Assessor shall have made a demand upon the person, if resident in the county, or by registered mail, if non-resident, whose address is known, to whom such lands or property was last assessed, and the said assessor shall make a diligent inquiry to ascertain the name of the owner of said lands or property. Any assessor or deputy assessor who fails to comply with the requirements of this section shall be guilty of a misdemeanor, and fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00).

Section 54. The assessor shall be entitled to a fee for making returns of property which has escaped taxation of fifty cents for each assessment, provided if the escape is for more than one year, all back years shall be made on one assessment blank, and the current year's escape on a separate assessment for which he shall be entitled to an additional fee of fifty cents such fee to be added to and collected with taxes due. In case of lands lying in one body, other than lands platted and subdivided into lots, the return shall be made on said lands as a whole, unless the assessor has reason to believe that they belong to different owners, in which case when lands lying in one body and supposed to belong to the same owner, must be included in one return, and no fee shall be allowed the assessor for any return made in disregard of this provision, but the assessment of any such property thereafter made shall not for that reason be invalid.

Section 55. The Tax Assessor must make and enter in an assessment book, suitably ruled and substantially bound, in forms as prescribed by the State Tax Commission, a condensed statement of all assessments made during each tax year, showing in separate columns the name of the owner, a description of the real estate and improvements thereon, the assessed value thereof, and the value of the personal property assessed for taxation; and the assessor shall compute and enter opposite the name of each taxpayer the aggregate amount of State, county and special taxes with which such taxpayer is charged. When the hearing of objection to assessments has been completed as herein provided, the Tax Assessor shall complete the said book by making the proper entries therein, and foot up at the bottom of each page the aggregate of

all such taxes. When appeals have been taken to the circuit court, as herein provided, this fact must be stated. Provided that in counties where assessors are now allowed by law to use assessment lists in lieu of a book of assessments, the assessor shall not be required to prepare a book of assessments as provided for in this Section, but in lieu thereof shall be required to arrange in alphabetical order original assessment lists, and cause the same to be permanently bound, and such assessment lists when bound, shall constitute the book of assessments as herein provided, and the certificate of the State Tax Commission, or the agent or assistant thereof provided for in the next section, shall be entered upon each of said bound volumes of assessments. Such assessment lists when bound shall be preserved permanently as a matter of record. In making the tax collectors' abstracts, such abstracts shall be made direct from the assessment lists.

Section 56. After the book of assessments has been completed as herein provided, the State Tax Commission or the agent or assistant thereof shall certify on the book of assessments that the same has been examined and corrected by him by comparing the book of assessments with the tax returns showing final valuations, both as to items of property and amounts of assessments, and that the amount of state tax is \$\_\_\_\_\_ (here give amount) \_\_\_\_\_, the amount of county tax is \$\_\_\_\_\_ (here give amount) \_\_\_\_\_, the amount of special taxes is \$\_\_\_\_\_ (here give amount) \_\_\_\_\_, specifying the total amount of each of such taxes, and such certificate is to be the warrant to the tax collector of the county to proceed to collect such taxes in the manner directed by law.

Section 57. When the book of assessments has been completed as herein provided, the county tax assessor must without delay make out in triplicate upon forms to be furnished by the State Tax Commission, a complete abstract of all real and personal property as contained in the assessment book of his county, showing the total amount and value of each class of taxable property, and property exempt from taxation, and the amount of taxes on each item, extended in a column; such abstract of assessment must be approved and certified to by the State Tax Commission, one of which the said tax assessor must forward to the State Comptroller not later than the second Monday in August of each year, one to the State Tax Commission, at Montgomery, and the other he must deliver to the tax collector by said date. The State Comptroller shall report to the Governor any tax assessor who for five days after the date required has failed to forward to the State Comptroller the abstract of assessment of his county, and the Governor shall forthwith require of such Tax Assessor an official report of the cause of such failure.

Section 58. After the book of assessments has been completed

as herein provided, the Tax Assessor must enter in a book in concise form, the amount of taxes assessed against each taxpayer, showing separately the amount of taxes on real estate and personal property and other subjects of taxation, and the total amount of tax due, and the address of the taxpayer and the fees of the assessor with a blank for the fees of the collector, and such book he must turn over to the tax collector on or before the fifteenth day of September. For the services rendered by him in preparing such book he shall receive compensation to be allowed by the Court of County Commissioners, Board of Revenue, or other governing body of like jurisdiction as follows, viz.: In counties where the aggregate assessed value of real and personal property amounts to two million dollars (\$2,000,000.00) or less, one hundred dollars (\$100.00); when the assessed value amounts to more than two million (\$2,000,000.00) and not exceeding four million dollars (\$4,000,000.00), one hundred and twenty-five dollars (\$125.00); when the assessed values amount to more than four million dollars (\$4,000,000.00) and not exceeding six million dollars (\$6,000,000.00) one hundred and seventy-five dollars (\$175.00); when the assessed values amount to more than six million (\$6,000,000.00) and not exceeding eight million dollars (\$8,000,000.00) two hundred dollars (\$200.00); when the assessed values amount to more than eight million dollars (\$8,000,000.00) such compensation as may be fixed by the Court of County Commissioners, Board of Revenue or other governing body, not less than two hundred and fifty dollars (\$250.00); and not exceeding six hundred dollars (\$600.00); but any assessor who fails to complete such abstract by the time required shall forfeit all right to compensation.

Section 59. It is the duty of the Tax Assessor of every county in the State to procure at the expense of the County a book in the form to be prescribed by the State Tax Commission, in which he shall enter a complete map and list of all the blocks and lots which have been platted, and the maps of which are recorded in the office of the Judge of Probate or can be procured within his County, beginning with the lowest numbered block and lot and proceeding in numerical order to the highest, with the name of the owner set opposite each block and lot, together with the assessed value thereof. Each subdivision or addition to any town or city shall be shown by proper headings at the top of each page of such lot book, and by index in the front thereof. The Tax Assessor shall annually make the entries thereon, for which he may be allowed a reasonable compensation by the Court of County Commissioners or Board of Revenue.

Section 60. The Tax Assessor shall make, or cause to be made, a complete plat book or books of all real estate in the county, unless such book or books have already been provided, in a form to be prescribed by the State Tax Commission, in which the name

of the owner shall be entered on each separate subdivision, together with the assessed value thereof. The court of county commissioners or court of like jurisdiction shall pay out of the general fund of the county, for making out the plat books required by this and the preceding section, a reasonable compensation to the person performing said work, which debt shall be preferred claim against the county.

Section 61. The Tax Assessor shall each year before the first day of October in such year, revise the plat book provided for by Sections 59 and 60 of this Act, so as to correspond with the tax returns and values for such year, and as otherwise provided by law, or by the order of the State Tax Commission.

Section 62. In the event the Tax Assessor shall fail to comply with the requirements of Sections 59, 60, and 61 of this Act, in any year, he shall forfeit to the State of Alabama the sum of five hundred dollars (\$500.00), which may be collected by the State by suit upon his official bond.

Section 63. Such maps and plat books shall be kept in the office of the Tax Assessor, open to the inspection of the public, at all times when not in use by the Assessor, or the county tax agent or the board of county tax agents or Board of Review.

Section 64. The Court of County Commissioners or other court of like jurisdiction, at the regular February term in each year, shall levy the amount of general taxes required for the expenses of the county for the current year, not to exceed one-half of one per cent of the value of the taxable property as assessed for revenue for the State as shown by the book of assessments after it shall have been corrected, and at the same time levying the amount of special taxes required for the county for the current year, which levy shall be made upon the same basis of valuation provided above and when such levy shall be made, to certify the rate or rates of taxation, and the purpose or purposes for which the tax is levied to the Tax Assessor of the County.

Section 65. When the Tax Assessor has reason to believe that any person whose property has been or is due to be assessed for taxation, either for the current tax year or any preceding year, has removed or is about to remove from the County, or that such person is closing out or going out of business by selling or disposing of substantially all of his personal property on which taxes would be due on the next following October first, or where insolvency is impending, or where goods, wares or merchandise are advertised for sale at auction, bankrupt, insolvent, assignment or fire sale, or where goods, wares or merchandise are to be sold or advertised to be sold for the satisfying of creditors, he shall at once notify the Tax Collector in writing, if the property has been assessed, and if the property has not been assessed, the Assessor shall at once make an assessment against the same and deliver the assessment so made

to the Tax Collector, and on his failure to do so, he shall be liable for the full amount of the tax due on or to become due on such assessment. Advertisements in the newspapers or otherwise of a sale of any property as a closing out sale, bankrupt sale, fire sale, or any sale of like character, shall be prima facie evidence that the collection of taxes due or to become due on the next following October first, on such property, is endangered, within the meaning of this section.

Section 66. The Tax Assessor shall assess the taxes against each auctioneer, provided by law, and shall enter the same on his books as in cases of other assessments, and such assessor shall immediately make a statement of such assessment and deliver the same to the Tax Collector for collection. Such taxes become assessable and payable immediately upon the expiration of each such auction sale.

### ARTICLE III.

#### BOARD OF REVIEW

Section 67. The members of the courts of county commissioners or Boards of revenue, other than the judge of probate, of the several counties of the State, together with the tax assessor of such counties are hereby constituted a board of review, whose duty it shall be to inspect, review, revise, and fix the value of all the property returned to or listed with the tax assessor for taxation each year; in addition to duties as a member of the board of review, the tax assessors of the several counties shall act as secretary of such board, provided, however, nothing in this act shall be construed to require the tax assessor or boards of review to value any property required by law to be assessed for taxation by the State Tax Commission. The majority of the Board of Review shall constitute a quorum of such board for the performance of the duties required herein; provided that at any time the State Tax Commission shall deem it necessary, it may go or send or use agents or representatives into any county with authority to act in an advisory capacity and in conjunction with the Board of Review and perform such other duties, with respect to the valuation and assessment of property for taxation as may be required of them.

Section 68. Agents or representatives of the State Tax Commission assigned to any county or counties for the purpose of advising with the Boards of Review with respect to valuing real and personal property for assessment for taxation, shall have the power and authority to inspect, review, value and assess any property subject to taxation and such agents or representatives are authorized to fix values for assessment, subject to the approval of the

Board of Review of the County in which such property is located.

(a) In cases where such agents or representatives have fixed a value for assessment such value must be entered on the tax return of the taxpayer showing day and date when value was fixed and such agents or representatives shall certify to all values fixed by him or them. (b) It shall be the duty of each such agent or representative assigned for duty in a given county or countis, as soon as letters of protest are filed with the Board of Review to attempt to adjust, equalize and settle said protest. To that end he shall notify as many of such protesting taxpayers, by mail at the address shown on the tax return, as he can reasonably interview to meet him at the court house of the county on a given day, and others for the other days intervening prior to the first Monday in June, then and there to attempt to adjust such protests. If the taxpayer at such interview agrees with the tax agent on a valuation and consents in writing thereto on his return, such valuation shall be final unless the Board of Review shall disapprove the same and notify the taxpayer by mail at his address shown upon his return, of such disapproval and of the fixed date after the first Monday in June of that year when the Board of Review will hear such taxpayers on such assessment. (c) All protests filed within time, which it shall be impossible for the tax agent or agents assigned to a given county to notify to report for such an interview, or having notified they fail to interview, and all protests of taxpayers who fail to report for such preliminary interview and all protests of taxpayers who so report and fail to agree upon a final valuation or whose agreed final valuation shall be disapproved by the Board of Review, shall be listed or docketed by the Board of Review for hearing by it. This list or docket shall be made up as nearly as may be in the order in which such protests were received by the Board of Review and shall be heard by the Board of Review substantially in the order so listed or docketed. At the hearing of these protests, beginning on the first Monday in June following the making of the assessments as herein elsewhere provided, the Board of Review shall accord each protesting taxpayer a reasonable time and opportunity within which to be heard, taking into consideration the total time available for hearing such protests, the number of protests pending, the amount and nature of the property involved in the given assessment and all other relevant circumstances. The Board of Review shall cause each protesting taxpayer to be notified by mail at his address shown upon his assessment, of the day and place when the Board proposes to hear such taxpayer and if he shall present himself on such day and not be heard, he shall be assigned another day certain for hearing and so on until he is heard. No taxpayer, agent, attorney or adjuster shall be heard out of the order in which the protested assessment proposed to be heard appears upon the list or docket of protests, if any other taxpayer,

whose protest appears first on such list or docket is present and ready to be heard. (d) The duties herein imposed upon Boards of Review are declared to be of prior and paramount importance and if any member of a Board of Review fails or refuses without good cause and legal excuse to attend upon and perform such duties, such failure or refusal shall constitute official misconduct and non-feasance in office and subject the offender to impeachment and removal from office. No salary or compensation shall be paid any member of a Board of Review for any part of the period commencing on the first Monday in June of each year during which he shall be required to sit as a member of such Board until he shall have first made and filed with the public officer, disbursing such salary or compensation, a sworn statement that during the period for which such salary or compensation is claimed, he has performed faithfully and to the best of his ability his duties as a member of the Board of Review. (e) Every agent or representative of the State Tax Commission assigned to any county under the provisions of this Article shall file each month with the State Commission a sworn statement that he has performed faithfully and to the best of his ability the duties required of him hereunder before compensation for service is paid. (f) Immediately after January 1, of each year, the tax assessor shall deliver to the Board of Review all assessments as returned to him, and thereafter shall deliver all additional assessments returned to him. Such assessment sheet shall show the valuation fixed by the tax assessor and if such valuation be agreed to by the taxpayer, such taxpayer shall endorse on the assessment sheet valuation accepted. \_\_\_\_\_

Taxpayer, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. If such valuation is satisfactory to the Board of Review, it shall endorse thereon: Approved \_\_\_\_\_ Board of Review and the date and signed by the Chairman such approved assessments shall be final and no appeal will lie therefrom.

Section 69. It shall be the duty of the members of the commissioners or other court of like jurisdiction, at the regular February term in each year, to sit with the tax assessor, and at such sitting select a chairman of the Board of Review herein provided for; and to make such rules and regulations as may be necessary to carry out the provisions of this act as to the assessment and valuation of property for taxation. (b) The Board of Review shall have authority at any time to make such rules and regulations as it may deem necessary to carry out the provisions of this act, not in conflict with the provisions hereof.

Section 70. The members of the courts of county commissioners or boards of revenue, or courts of like jurisdiction of the several counties of the State shall receive, as members of the Board of Review, the same per diem and be paid in the same manner as when sitting at a regular term of such court of county commissioners or



board of revenue when such compensation is fixed on a per diem basis, which compensation shall be in addition to that as now fixed by law, except in counties where such officials are paid a salary.

Section 71. Each member of the Board of Review herein created, before entering upon his duties, in addition to taking the regular oath of office now prescribed by the laws of the State of Alabama, shall take and subscribe to the following oath: "I do solemnly swear that I will faithfully discharge the duties of adjusting tax values, and that I will fix the valuation of all property listed for taxation and submitted for review to the board of which I am a member, on a basis of its fair and reasonable value to the best of my knowledge and ability, so help me God."

Section 72. When the assessor shall have completed the assessment, valuation and equalization work in his county as provided in this Act, he shall notify each member of the Board of Review and such board shall meet on the second Monday in March and sit at the court house of the county from day to day until their duties are completed, which shall not be later than the first Monday in April, and shall review, revise, correct and fix the assessment values made by the tax assessor by raising or lowering the assessment of any person, partnership, corporation or association, except such assessments as have been approved by the State Tax Commission, as to any or all of the items of his assessment, in such manner as to secure the assessment of property at sixty per cent of its fair and reasonable market value. The majority of a board of review shall govern in fixing the value for assessment of all property before them for determination.

Section 73. It shall be the duty of the Board of Review to meet on the second Monday in March and sit as long as may be necessary to carefully examine and inspect all tax returns and assessments delivered to it by the county tax assessor. If the board finds that any taxpayer has neglected to make a return or has omitted from his return any property that should be returned, it shall be its duty to make up a return upon the proper blank, with a description of the property to be assessed, which property it shall then proceed to value and equalize in the same manner as other property is valued and equalized by it, and to the value thus placed thereon shall be added a penalty of ten per cent for failure of the owner of such property to properly return the same. The secretary of the Board shall by registered mail return receipt demanded, or in person give notice to the owner of any property which has been omitted from the tax return and has been assessed as provided in this Section.

Section 74. Immediately upon the completion of the work of reviewing and adjusting assessed valuations under the provisions of this Act, the tax assessor shall give notice by publication once a week for two consecutive weeks in a newspaper published in the

county, and if no newspaper is published in the county, by posting notices in three public places in each precinct of the county, that the assessed valuations of all property listed for taxation have been fixed as provided by law and that the tax return list showing thereon such assessed valuations are in his office and open for public inspection, and that the Board of Review will sit at the court house of the county, on the first Monday in June to consider such protests as may be filed by any taxpayer as herein provided, and that any taxpayer who is not satisfied with the valuations of his property as fixed and entered on the return list as required herein, may file objections in writing to such assessed valuations with the secretary of said board, on or before the last Monday in April, and the taxpayer shall set out in such objections filed, the description of each item of property and his reason for making objections to the assessed valuation as placed thereon.

Section 75. For the purpose of hearing objections filed in writing to any assessments or valuations fixed as provided for herein, the Board of Review shall sit at the court house in their respective counties on the first Monday in June in each year, from 9 A.M. to 5 P.M., and shall continue as long as may be necessary, provided such sitting shall not be extended beyond the second Monday in July, unless otherwise ordered by the State Tax Commission, to dispose of all cases where objections to valuations or assessments have been filed in writing by any taxpayer, as provided in this Act. At such sitting the property owner may appear in person, or by agent or attorney and produce evidence in support of objections, if any, to any assessment or valuation heretofore made, and it shall be the duty of the Board of Review to examine under oath any complaining property owner, and to examine any other witnesses under oath as to the fair and reasonable market value of the property of such owner, and if it is found from the evidence that the valuation theretofore placed was not sixty per cent of the reasonable market value of such property, whether more or less, then the said valuation or assessment shall be corrected so that it will show sixty per cent of a fair and reasonable market value and such corrected amount shall constitute the assessed value of such property. But if it is found from the evidence that the assessed value placed on the property was sixty per cent of a fair and reasonable market value thereof, the said value shall stand as the assessed value of said property, unless an appeal is taken therefrom, as provided by this Act.

Section 76. When the work of hearing objections against values fixed on taxable property shall have been completed by the Board of Review, the Tax Assessor shall enter upon the tax return lists the corrected values, if any changes have been made therein, which changed or altered value shall be the taxable value of the

property or properties, unless an appeal is taken as herein provided, or unless otherwise ordered by the State Tax Commission.

Section 77. In cases where objection has been made by any taxpayer, his agent or attorney, as provided herein to the taxable value fixed by the Board of Review, on any property assessed against such taxpayer, and such objections have been over-ruled by said board, such taxpayer, his agent or attorney, may take an appeal from the action of said board in overruling his objection, to such valuation, to the circuit court of the county in which the taxpayer's property is located.

Section 78. All appeals from the rulings of the Board of Review fixing values of property shall be taken within thirty days after the final decision of said Board fixing the assessed valuation as provided in this Act. The taxpayer shall file notice of said appeal with the secretary of the Board of Review and with the Clerk of the Circuit Court, and shall file bond to be filed with and approved by the Clerk of the Circuit Court, conditioned to pay all costs and the taxpayer or the State shall have the right to demand a trial by jury by filing a written demand therefor, within ten days after the appeal is taken. When an appeal is taken the taxpayer shall pay the taxes due as fixed for assessment for the preceding tax year before the same becomes delinquent, and upon failure to do so, the court upon motion *ex mero motu* must dismiss the appeal, unless at the time of taking the appeal the taxpayer has executed a supersedeas bond with sufficient sureties to be approved by the Clerk of the Circuit Court in double the amount of taxes, payable to the State of Alabama, conditioned to pay all taxes, interest and costs due the State, County or any agency or subdivision thereof. Such appeals shall be preferred cases. The assessment made by the Board of Review shall *prima facie* be correct and the party appealing shall have the burden of proving a different value. Provided that if from all the evidence the court be of the opinion that the valuation is either too high or too low, it shall render a judgment or decree fixing such valuation as it may deem fit. The circuit court shall so far as practicable hear such appeals according to the general rules and procedure of courts, but when acting under this statute or acquiring jurisdiction as provided herein, it shall have no power to enjoin or suspend the collection of any taxes due. It shall decide all questions as to the legality of the assessment and the valuation of the property. Provided the original assessment sheet or a certified copy, showing the assessment by the Board of Review shall be sufficient appearance by the State and shall make out a *prima facie* case. From the judgment of the circuit court, either the State or the taxpayer may appeal direct to the Supreme Court of Alabama within thirty days of the rendition of such judgment. Upon such appeal to the circuit court or to the Supreme Court, the court shall ascertain and determine by its

judgment or decree, the amount of tax which was invalid or which was excessive both as to the amount paid to the State, counties, county boards of education, municipalities or other governmental agencies receiving any part of such taxes, and thereupon upon presentation of a certified copy of the judgment to the State comptroller, it shall be the duty of the State Comptroller to draw his warrant on the State Treasurer in favor of such taxpayer for such an amount as the judgment of the court shall ascertain and declare has been erroneously paid to the State together with interest from the date of payment, and such warrant of the State Comptroller shall be paid out of any funds in the State Treasury as a current obligation of the year in which said refund is ordered. Upon presentation of a certified copy of such judgment to the Court of County Commissioners or other governing body of any county, or upon presentation of a certified copy of such judgment to a county board of education, or to the city council or other governing body of any municipality, or upon presentation of a certified copy to the governing body of any other agency of the State which may have received any part of said tax erroneously paid as determined by the judgment, it shall be the duty of said Court of County Commissioners or other governmental body of the county, or the county board of education or of the city council or other governmental body of a municipality, or of the governmental body of any other agency receiving any part of such taxes to draw its warrants on the Treasurer of such County, School Board, Municipality or other agency in favor of the taxpayer for such amount of said tax as may have been erroneously paid to such county, school board, municipality or other agency, together with interest from the date of payment, and such amount shall constitute a preferred claim of the current year in which said refund is ordered, and the respective treasurers are hereby required to refund such amounts received by said county, school board, municipality or other agency with interest as herein provided. In the event the judgment of the Court shall fix an assessment greater than that upon which the taxes have been paid the taxes on the assessment appealed from, the Court shall fix and determine the amount of such excess and the taxpayer and the sureties on his appeal bond shall be adjudged to pay taxes due by reason of such increased assessment with interest from the date of judgment and the lien and priorities of the State and counties or other agencies shall apply to such additional amount as in other cases. The Court in fixing the assessment shall order the assessing authorities to apportion the same and the collecting authorities to collect taxes thereon for the several taxing subdivisions in the manner provided by law.

Section 79. The failure of the tax assessor, Board of Review, or the State Tax Commission, or its agents, to perform any of the duties of assessing and valuing property, or hearing objections to

assessment valuations, at the time prescribed, or to complete such duties within the time prescribed by this Act, shall not invalidate any assessment or any act of such tax assessor, Board of Review or State Tax Commission, or its agents, made or done after the expiration of such time. The duty of the tax assessor to inspect and examine real property in his county is directory and failure to do so shall not invalidate assessments and valuations made by the assessor or the Board of Review or the State Tax Commission or its agents.

Section 80. Whenever under the provisions of this Act any notice, subpoena, or writing is required to be given or served, the same shall be served by any Sheriff in this State or his deputy, or by any lawful constable of this State, except as otherwise provided by this Act. The compensation of such officer for serving such notice, subpoena, or writing shall be the same as is now allowed the sheriff for summoning witnesses for the circuit court in civil cases, which shall be paid by the court of county commissioners, or like governing body of the county.

Section 81. The circuit and county solicitors together with any special counsel employed by the State Tax Commission, with the approval of the Governor, and Attorney General, shall represent the State and county in all tax cases appealed to the Circuit Court. The circuit and deputy solicitors and all State and county officials are prohibited from representing taxpayers in any controversy between such taxpayer and the State or county. Provided they may appear where the value of their own property is in controversy.

Section 82. It shall be the duty of the agents of the State Tax Commission assigned to any county, when not engaged in passing on assessments, to inspect, view and appraise property, post records, secure information relating to sales, building permits and such other duties as the State Tax Commission prescribes and all of which shall be directed to the better appraisal and valuation of all property in the county for tax purposes.

## ARTICLE IV.

### STATE TAX COMMISSION.

Section 83. The State Tax Commission shall be composed of a Chairman and two associate members as provided for by law (Act Legislature 1935, approved January 30, 1935.) (a) The duties and powers of the State Tax Commission shall be the duties and powers conferred by law upon the State Tax Commission and such other duties and powers as may be hereafter conferred. (b) That the salaries of the members of the State Tax Commission shall be Thirty-six Hundred (\$3,600.00) Dollars per year payable monthly out of the State Treasury, as other salaries are now paid.

Section 84. The Chairman and the members of the State Tax Commission shall receive the salary fixed herein for the time that they actually hold office, such salaries to be paid out of the State Treasury in the same manner as salaries of other State officials are paid.

Section 85. The members of the State Tax Commission shall be qualified electors, known to possess high character and knowledge of the general subject of taxation and matters pertaining thereto. No member of said Commission shall hold another office under the government of the United States, or under any other State, or of this State, or any political subdivision thereof, during his incumbency of such office, and shall not hold any position of trust or profit, or engage in any occupation or business the conduct of which shall interfere or be inconsistent with the duties they shall assume as members of the State Tax Commission under the provisions of this Act; provided that no one shall be eligible to serve as a member of the State Tax Commission while employed by or financially interested in any public service corporation, and unless he shall have been a citizen of Alabama for a period of five years, and shall be over thirty years of age.

Section 86. The members of the State Tax Commission before entering upon the discharge of their duties, shall enter into bond in the sum of Five Thousand Dollars for the faithful performance of his duties, which bond shall be approved by the Governor, and shall take, subscribe and file with the Secretary of State the following special oath of office in addition to the general oath of office prescribed for public officers by the constitution of Alabama, to-wit: "I, \_\_\_\_\_, do hereby solemnly swear that I will faithfully, impartially perform the duties of office as a member of the State Tax Commission, to which I have been appointed and which I now assume, without fear or favor, bias or thought of personal gain or advantage, to the best and utmost of my ability, capacity and power." This oath shall be taken before any officer qualified to administer oaths in the State of Alabama, and thereupon shall be filed with the Secretary of State.

Section 87. The State Tax Commission may appoint a secretary at a salary of not more than Two Thousand One Hundred Dollars (\$2,100.00) per annum, which salary shall be paid out of the State Treasury in the same manner as the salaries of other State officials are paid. The State Tax Commission may employ such other persons as experts, engineers, stenographers, clerks or assistants as may be necessary for the performance of the duties which may be required of said Commission and said Commission shall fix the compensation of such other persons, with the approval of the Governor, such compensation to be paid out by the State Treasurer out of the appropriation made for the annual expenses of the State Tax Commission, or out of the fund or funds out of

which said expense are properly payable upon warrants drawn by the Comptroller upon said fund or funds.

Section 88. The Secretary of said Commission shall keep full and correct minutes and records of all hearings, transactions, proceedings, and findings of the Commission, and shall perform such other duties as may be required of him by law or by said Commission from time to time. The Commission shall make all needful rules, not inconsistent with law, for the orderly, efficient and methodical performance of its duties, and for conducting hearings and other proceedings before it. In any case where notice to a taxpayer is necessary of any proceedings by or before the Commission, and such notice is not specifically provided for in this Act, the taxpayer shall be given ten days notice thereof.

Section 89. Oaths to witnesses in any matter under the investigation or consideration of the commission may be administered by any member of the commission, or by the secretary thereof, or by any chief clerk, field agent, or auditor. Any person swearing falsely to any material matter, shall be guilty of perjury and shall be punished as provided by law.

Section 90. The State Tax Commission shall have and maintain its offices at the Capitol in Montgomery, and shall be provided with suitable rooms, necessary office furniture, supplies, stationery, books and maps, and all expenses of the commission incurred in discharge of its duties and the administration of its duties and the administration of its functions shall be paid by the State Treasurer out of the appropriation made for the annual expenses of the State Tax Commission, upon a warrant drawn by the State Comptroller on the certificate or voucher of the commission, approved by the Governor; provided that the Governor may at his discretion provide other or additional offices in the city of Montgomery for the use of the State Tax Commission.

Section 91. All the members of the State Tax Commission, and the secretary of the commission, and all stenographers, experts, engineers, and assistants who may be employed by the commission, shall be entitled to receive their actual expenses while traveling or acting on the business of the Commission, such expenses to be itemized and sworn to by the person who incurs the same, and vouchers attached as now provided by law, and shall be approved by said Commission, and also by the Governor, such expenses not to exceed any maximum fixed by law. Such expenses shall be paid by the State Treasurer out of the appropriation made for the annual expenses of the State Tax Commission, or out of the fund or funds out of which such expenses are properly payable upon warrant drawn by the Comptroller upon such fund or funds.

Section 92. All employees of the State Tax Commission shall be subject to the order of the Commission, and may be removed by the Commission with or without cause.

Section 93. It shall be the duty of the State Tax Commission, and it shall have the power and authority, in addition to the authority now in it vested by law. (a) To have and exercise general and complete supervision and control of the valuation, equalization and assessment of property, privilege, or franchise, and of the collection of all property, privilege, license, excise, intangible, franchise or other taxes, for the State and counties, and of the enforcement of the tax laws of the State, and of the several county tax assessors, and county tax collectors, probate judges, and each and every State and county official, board or commission charged with any duty in the enforcement of tax laws, to the end that all taxable property in the State shall be assessed and taxes shall be imposed and collected thereon in compliance with the law, and that all assessments on property, privileges, intangible, and franchises in the State shall be made in exact proportion to the fair and reasonable market value thereof in substantial compliance with the law. (b) To equalize, value and assess or cause to be equalized, valued and assessed, any property subject to taxation, and such valuations and assessments it shall enter or cause to be entered in the proper assessment book, or record, or minutes of the proper official, board or tribunal; to set aside all assessments so entered in any assessment book, record or minutes within any time before the end of the assessment year, and after ten days' notice given the taxpayer which notice shall be given by registered mail, return receipt demanded, of the time and place of hearing, revalue and reassess said property and cause such revaluation and assessment to be entered in the proper assessment book record or minutes in lieu of the original valuation and assessment, provided, that no reassessment or revaluation shall be made of any particular assessment from which an appeal is then pending, or if the valuation of the property for that year has been fixed on appeal by the Circuit Court or Supreme Court; provided further that parties may appeal from such revaluation and reassessment to the circuit court within like time and in like manner as from the valuation and assessment as fixed by the Board of Review. (c) To confer with, advise and direct the several county tax assessors, county tax collectors, probate judges, boards or commissions, and each and every State and county official charged with the assessment and collection of taxes, as to their duties under the laws of this State. (d) To direct suits to be instituted by the Attorney General, circuit or deputy solicitors, or attorneys especially employed for such purposes, with the approval of the Attorney General for the collection of any taxes or penalties due the State or any county, or to compel any officer or taxpayer to comply with the provisions of the tax laws; to direct actions, prosecutions and proceedings to be instituted to enforce the laws of this State relating to taxes, penalties, forfeitures and liabilities, and for the punishment of any public officers or any person or any officer or



agent of any corporation, company or association, trustee or receiver for failure or neglect to comply with the provisions of the tax laws, and to cause complaints, informations, actions or prosecutions to be made or instituted against any tax assessor, tax collector, probate judge, or other public official, for the removal of such officers for official misconduct or neglect of duty. (e) To require circuit or deputy solicitors, and the Attorney General of the State, to commence and prosecute, within the respective jurisdiction or spheres of official duty of said officers, actions, proceedings and prosecutions for penalties, forfeitures, impeachments, and punishments for violations of the tax laws of the State. (f) To require any public official in the State to report information as to valuation, equalization and assessment of property, privileges, franchises or intangible, gross receipts, collections of taxes, receipts from licenses and other sources, methods of taxation, values or franchises or intangible property or assets subject to taxation, and such other information as may be needful in the work of the State Tax Commission in such forms and upon such blanks as the Commission may prescribe and furnish. (g) To require individuals, partnerships, associations, corporations, trustees and receivers, and the agents, officers and employees thereof, to furnish information concerning their capital, funded or otherwise, gross receipts, net profits or income, excess profits, current assets and liabilities, values of franchises, intangibles, value or property, earnings, operating and other expenses, bonds, deeds, conduct of business, and all other facts, records, books, papers, documents and other information of any kind demanded which may be needful, in order to enable the Commission to ascertain the value and relative burden to be borne by every kind of property in this State, and to ascertain the proper amount of license, privilege excise, corporation franchise, income or ad valorem taxes. (h) To summon witnesses to appear and give testimony, and to procure records, books, papers, documents, and all other information of any kind or character required relating to any matter which the Commission shall have authority to investigate and determine. The witnesses may be summoned by subpoena issued by any member of the Commission, or by the secretary thereof, in the name of the Commission, directed to any sheriff of Alabama, and returnable to the Commission, which subpoena may be served in like manner as subpoenas issued out of any circuit court; or the subpoenas may be served by registered mail, addressed to the witness with return receipt demanded. In either case the subpoenas must be served at least five days previous to the time named therein for the appearance of the witness. Subpoenas duces tecum to any witness to appear and produce any records, books, papers or other documents, may be issued and served in like manner; provided that no officer of any bank or banking institution shall be required to disclose to the Commission or any

of its agents or clerks the deposits of its customers except upon order of court. When any witness has been summoned and refuses or fails to appear or upon appearing refuses to testify, or having been summoned to produce records, books, papers, documents, or other like information, fails or refuses to do so, either or all, shall be guilty of contempt and upon the certificate of such fact to a circuit judge he shall sentence the offender for contempt and shall punish such offender as is now provided for by law in cases of contempt in circuit courts. The State Tax Commission in cases of refusal to produce such books, documents, records and papers or information of such character as it may deem necessary may apply for mandamus to a judge of the circuit court of the county in which such person has his principal place of business and thereupon it shall be the duty of such circuit judge to require the production of such books, records, papers, documents and such other information as may be required, within ten days from the application of such writ of mandamus. (j) To cause the deposition of witnesses residing within or without the State to be taken upon such notice to the interested party, if any, as the Commission may prescribe, in like manner as depositions of witnesses are taken in actions pending in circuit court, in any matter which the Commission has authority to investigate and determine. The depositions shall be taken upon a commission issued by the State Tax Commission, or the secretary thereof, in the name of the Commission, and returnable to the Commission. (k) To visit in a body or separately or by duly authorized agents, the several counties in the State for the purpose of investigating the work and methods of county tax assessors, tax collectors, probate judge, or other officers or boards charged with the duty of administering the tax laws of the State; to examine carefully into all cases where evasions or violations of the tax laws are alleged, complained of or discovered, and to ascertain wherein existing laws are defective, or are improperly or negligently administered; and to report the result of the investigation and the facts ascertained to the Governor from time to time when required by him. (l) To investigate the tax system of other states; to thoroughly inform themselves upon the subject of taxation and of the progress made in other states and counties in improving their tax system, to formulate and recommend such legislation as may be deemed expedient to prevent evasion of existing tax laws and to secure just and equal taxation and improvements in the system of taxation in this State. (m) To consult and confer with the Governor upon the subject of taxation and the administration of the laws, and progress of the work of the Commission, and to furnish to the Governor from time to time such information as he may require. (n) To transmit to the Governor, thirty days before the meeting of the Legislature, a written report showing all the taxable property in the State and the value of the same,

in tabulated form, with recommendations for improvements in the system of taxation in the State, together with suggestions of such measures as the Commission may formulate for the consideration of the Legislature in regard thereto. (o) For good reason shown and entered on the minutes of the Commission, to extend the time for filing any report or written statement required to be filed with the State Tax Commission. (p) To inspect and examine at all reasonable business hours as a body, separately, or by agents, any books, documents, records or papers kept by any person, firm, corporation, trustee or receiver. (q) To make all assessments provided by law and to immediately report all assessments required by law to be made by it to the Attorney General. (r) To issue executions and writs of garnishments directed to any sheriff of Alabama, on any final assessment or judgment made or rendered by it, and upon such executions the sheriff shall proceed as in cases issued out of the circuit court and shall make return thereof to the State Tax Commission within thirty days after the receipt thereof. (s) To perform such other duties as are or may be imposed on it by law. (t) The majority of the State Tax Commission shall constitute a quorum.

Section 94. Whenever the State Tax Commission has set aside and held for naught any assessment of property, except as otherwise provided herein, it shall give notice by mail of such action to the tax assessor of the county in which the property involved is located and to the owner of such property, by registered mail, return receipt demanded. As soon as practicable after any property assessment has been set aside by the State Tax Commission, the Commission shall make a revaluation, and in the same notice set a date for hearing objections, if any be made, to the valuation so fixed, and the hearing of objections shall be held at the office of the State Tax Commission, in Montgomery, Alabama, or at the court house of the county in which is located the property involved in the assessment, if demanded by the taxpayer, his agent or attorney, and when such assessment shall have been completed and made final by the Commission it shall notify the tax assessor of each county in which such property so revalued and assessed is situated of the amount of the assessment in such county, together with a general description of the property as assessed, which the assessor must enter in the book of assessments in addition to the assessments of other real estate and personal property.

Section 95. That it shall be the duty of the State Tax Commission to examine such of the tax records of the several counties as will enable it to ascertain whether the tax valuation of the various classes of property as made in the respective counties of the State, is reasonably uniform as between the respective counties, and is in proportion to the fair and reasonable market value of the property assessed. The purpose and intent of this Act is to bring

about as far as practicable an equalization throughout the State of the value of the various classes of property subject to taxation, so that the proportion of the fair and reasonable market value of the property as fixed for assessment in one county shall be in due proportion to the fair and reasonable market value of the same classes of property in other counties, fixed on the same basis for assessment, and that such classes of property in every county shall bear their proportion of the tax provided by law. If it shall appear to the said State Tax Commission that in any one or more counties of this State, or in any municipality or precinct of any county, the taxable values upon any one or more classes of property are not reasonably uniform with the values fixed upon the same classes of property in other counties, or are not in proportion to the fair and reasonable market value of such property, the State Tax Commission shall investigate and inquire as to the reason therefor, and after making such investigation and comparison, shall have authority to order and direct the Board of Review to readjust and re-equalize the same for the current or succeeding tax year, so that each item of property will bear its just proportion of the taxes as provided for herein. And the State Tax Commission shall thereupon notify the secretary of the Board of Review of the county affected, and the State Comptroller, that the county, precinct or municipal valuations upon the classes of property specified in said notice will be readjusted as provided herein, and the State Comptroller shall thereupon return to said county its tax abstract and other tax returns for correction accordingly.

Section 96. That upon the giving of such notice by the State Tax Commission of the revaluing and reassessment ordered to be made of property within said county, it shall be the duty of the Secretary of the Board of Review receiving such notice to call without delay a meeting of said Board of Review, and to notify the State Tax Commission of the date on which said board is called to meet, and it shall be the duty of said board to convene on the day named in such notice, and at such meeting the Board shall revalue and equalize the class or classes of property within the county, precinct, or municipality, as specified by the State Tax Commission, so as to conform to the findings and orders of the State Tax Commission by so revaluing and equalizing each item of said classes of property so that such item will bear its just proportion of tax as provided by law. If the Board of Review fails or refuses to make the changes and corrections thus ordered to be made by the State Commission, then the State Tax Commission shall itself, from such information it has, or may obtain, revalue and equalize the property involved, and the expense of such revaluation and equalization shall be paid by the county so affected and by the State in the same proportion that the State tax levy and the county tax levy bears to the total State and county levy for ad valorem

taxation. In counties where State Tax Commission makes a revaluation and equalization of property for assessment, the tax assessor shall receive commissions only on the basis of the original assessment as made by him.

Section 97. Whenever the work of revaluing and equalizing any class or classes of property has been completed by order of the State Tax Commission, as provided herein, and the revised valuation has been entered on the tax return list, the Board of Review shall certify over their signatures to the correctness thereof, and shall deliver said tax return list showing such assessment and revaluation, to the assessor of the county, as their report and the tax assessor shall hold them in his office subject to public inspection. The tax assessor shall then give notice by publication once a week for three consecutive weeks in a newspaper published in the county, if any be published in the county; and if no newspaper is published in the county, by posting notices in at least three public places in the county, that the Board of Review has returned its report and that the same is open to public inspection, and that said board will convene at the court house in the county on a day to be named and fixed in said notice, to correct any errors in the valuations. In the event the property of any taxpayer is increased by the Board of Review when revaluing and equalizing assessments as provided in this Section, over the assessed value as originally fixed by such board, the taxpayer shall be furnished by registered mail, return receipt requested, or in person, with a statement showing separately the revised value of his personal property and his real property, and also that such taxpayer may file in writing with the secretary of the Board of Review within ten days from the date of such notice, objections, if any are made, to the revaluation made as herein provided; and that the Board of Review will sit on a day to be named and fixed in such notice, when the complaining taxpayer, his agent or attorney may appear and produce evidence in support of any objection as filed. But failure to give or receive such notice shall not invalidate any assessment, provided, however, that the taxpayer shall have the right at any time before the taxes become due to appear before the Board of Review and have the assessment of his property reopened, if satisfactory proof is made that the taxpayer or his agent did not receive notice of such increase. It shall be the duty of the Board of Review to convene and sit at the court house in their respective counties on the day named and fixed in said notices, and remain in session as long as may be necessary for the purpose of hearing objections, if any, that have been filed in writing against said revaluation or equalization so fixed by said board; and at such sitting the complaining property owner may appear in person or by agent or attorney and produce evidence in support of objections to assessment valuations as fixed on his property; and it shall be the duty of the Board of Review

to examine complainant under oath and to examine any other witnesses under oath, as to the fair and reasonable market value of the property of said owner, and if it finds from the evidence the revaluation placed by it on the property was not sixty per cent of the fair and reasonable market value of such property, then it shall correct the valuations and enter such corrected value upon the tax return on which said property is listed for taxation, so that such return will show sixty per cent of the fair and reasonable market value, and such corrected amount so entered by the board shall constitute the taxable value of such property; but if the said board shall find from all the evidence that the revaluations placed by it on the property was sixty per cent of the fair and reasonable market value, then said valuation thus made shall remain and stand as the assessable value for taxation of said property. The revised and corrected property valuation thus made shall be fixed as the legal valuation of the property for the payment of the taxes, and it shall be the duty of the taxpayer to pay his taxes thereon accordingly. In the event the revaluation and equalization provided for herein is made by the State Tax Commission, the State Tax Commission shall certify to the correctness of the revised tax assessments and the newspaper publication shall be made and notices given as when the Board of Review revalues and equalizes property; that the State Tax Commission will sit on the date fixed in said notices to hear evidence in support of objections, if any, filed in writing with the tax assessor to revaluations and equalizations made by it; at such sitting the complaining property owner may appear in person or by agent or attorney and produce evidence in support of objections filed by him in writing to any revaluation of his property. And it shall be the duty of the State Tax Commission to examine any other witnesses under oath, as to the fair and reasonable market value of the property of said owner, and if it finds from the evidence that the readjusted value placed by it on the property was not sixty per cent of the fair and reasonable market value of such property, then it shall correct the valuations and enter such corrected value upon the tax return on which said property is listed, so that such return will show sixty per cent of the fair and reasonable market value and such corrected amount so entered by the State Tax Commission shall constitute the taxable value of such property; but if the State Tax Commission finds from all the evidence that the valuation placed by it on the property was sixty per cent of the reasonable market value, then said valuations thus made shall remain and stand as the assessable value for taxation of said property. From the revaluation and equalization made as herein provided, the taxpayer may appeal to the Circuit Court in the manner as provided for appeal from the Board of Review.

Section 98. It shall be the duty of one or more members of the State Tax Commission to visit annually the several counties

in the State for the purpose of familiarizing themselves with the character and values of the several classes of property therein, and investigate the methods and work of the county tax officials, and to ascertain wherein existing laws are defective or are improperly or negligently construed, and to report the result of this investigation and the facts ascertained to the Governor from time to time, as required by him.

Section 99. Any person may be required to appear as a witness before the State Tax Commission and testify to any matter which the State Tax Commission is authorized by law to investigate, and in the event the State Tax Commission or its designated agent is refused access at the place where same are kept, to any records, books, papers or other documents relating to any matter which the State Tax Commission shall have authority to investigate or determine, then such records, books, papers or documents shall be produced before the Commission at the courthouse of the county in Alabama in which is located the main office or principal place of business of the person, firm or corporation involved in the investigation being made by the State Tax Commission. In case any witness who has been summoned to testify before the State Tax Commission shall fail or refuse to testify to or make answer to any material question relating to any matter under investigation or consideration of the Commission, or to produce any records, books, papers or other documents in his custody or control when required to do so, as herein provided, any Circuit Court of like jurisdiction or any judge thereof, upon application of any member of the Commission, shall issue an attachment for such witness and compel him to comply with the summons and to attend before the Commission and produce such books, documents, papers or records and give testimony upon such matters about which he may be lawfully interrogated; and the court or judge thereof may punish such witness for contempt as in the case of disobedience for a like subpoena issued from such court for the refusal to testify in any cases pending therein. Any person who wilfully refuses to appear or furnish the information required of him shall be guilty of a misdemeanor.

Section 100. No witness shall be excused from attending or testifying or from producing books, papers, records, accounts, and other documents before the Commission, or in obedience to the subpoena issued by or in the name of the commission or any member thereof on the ground or for the reason that the testimony, documentary or otherwise, required of him, may tend to incriminate him or subject him to penalty or forfeiture. But no person shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify or produce evidence, documentary or otherwise, before the commission, or in obedience to its subpoena; but no person

so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Section 101. Every witness who shall appear before the commission by its order shall receive for his attendance the fees and mileage allowed by law for witnesses in civil cases in courts of record, which shall be audited and paid by the State in the same manner as other expenses of the State Tax Commission are audited and paid, upon the presentation of the proper vouchers sworn to by such witness and approved by the commission; but witnesses summoned by parties other than the commission shall be paid by parties causing the witnesses to be summoned.

Section 102. Whenever any matter is pending before any court affecting the revenue laws of the State, and in which the State is an interested party and the interest is very important, the State Tax Commission may, with the approval of the Governor and Attorney General, employ special counsel to represent the interest of the State on the trial thereof; provided, that the Attorney General certifies to the Governor in writing that neither he nor any of his assistants are available for service, and no case pending before a court affecting the revenue laws of the State shall be dismissed by counsel representing the State, whether specially employed counsel or otherwise, except by order of the State Tax Commission.

Section 103. Either the State or the taxpayer may appeal from any final assessment made by the State Tax Commission under any assessment required by law to be made by the State Tax Commission. If the appeal is by the State such appeal shall be made by the Attorney General filing the written notice with the Secretary of the State Tax Commission and with the Register of the Circuit Court of Montgomery County in Equity, within thirty days after such assessment is made final. The State Tax Commission shall immediately give notice by registered mail to the taxpayer of the filing of such appeal by the State. If any taxpayer against whom an assessment is made by the State Tax Commission under any assessment required by law to be made by the State Tax Commission, is dissatisfied with the final assessment as fixed by the said State Tax Commission, he may appeal from said final assessment to the Circuit Court of Montgomery County sitting in Equity, or, in cases other than public utilities, to the Circuit Court of the County in which the taxpayer resides if the taxpayer has within the State a permanent residence, at the option of the taxpayer, by filing notice of appeal with the Secretary of the State Tax Commission and with the Register of the Circuit Court of the County to which the appeal shall be taken within thirty days from the date of said final assessment made and entered on the minutes of the Commission as required by law, and in addition thereto by giving bond in double the amount of the assessment to be filed with and to be approved by the Register of the Circuit Court of Montgomery



County in Equity, to cover cost of such appeal and such damages as the State, counties, municipalities or other agencies may suffer by reason of such appeal. The taxpayer shall pay the assessment so made before the same shall become delinquent and if such taxes are not paid before the same become delinquent, the Court shall upon motion or ex mero motu dismiss such appeal, unless at the time of taking the appeal the taxpayer has executed a supersedeas bond with sufficient sureties to be approved by the Register of the Circuit Court of Montgomery County in Equity in double the amount of the taxes payable to the State of Alabama, conditioned to pay all taxes, interest and costs due the State, County or any Agency or Sub-division thereof. In such appeals the party taking the appeal shall be styled the appellant and the party against whom the appeal is taken shall be styled the appellee. The assessment made by the State Tax Commission shall prima facie be correct, and where the appeal is taken by the taxpayer the burden shall be on the appellant to show that such assessment is incorrect. The Circuit Court in Equity, or the Supreme Court of Alabama on appeal to it may, if it be of the opinion from all the evidence that the assessment as made is either too high or too low, fix the amount of such assessment. The Court shall hear such appeals according to its own rules and methods or procedure so far as practicable and shall decide all questions both as to the legality of the assessment and the amount thereof. No Court shall have the power to enjoin the collection of any taxes due on such assessment so appealed or to suspend the payment thereof. From the judgment of the Circuit Court in Equity, either the State or the Taxpayer may appeal direct to the Supreme Court of Alabama, within thirty days from the rendition of the judgment; the taxpayer shall give security for the cost of such appeal to be approved by the Register of the Circuit Court. If upon such appeal the assessment made by the State Tax Commission is reduced, the Court upon proof of payment of said tax shall ascertain and recite such fact in the judgment and shall ascertain and determine by its judgment or decree, the amount of tax which was invalid or which was excessive both as to the amount paid to the State, counties, county boards of education, municipalities or other governmental agencies receiving any part of such taxes, and upon presentation of a certified copy of the judgment to the State Comptroller, it shall be the duty of the State Comptroller to draw his warrant on the State Treasurer in favor of such taxpayer for such an amount as the judgment of the court shall ascertain and declare has been erroneously paid to the State, together with interest from date of payment, and such warrant of the State Comptroller shall be paid out of any funds in the State Treasury as a current obligation of the year in which said refund is ordered. Upon presentation of a certified copy of such judgment to the Court of County Commissioners or other governing

body of any county, or upon presentation of a certified copy of such judgment to a county board of education, or to the city council or other governing body of any municipality, or upon presentation of a certified copy to the governing body of any other agency of the State which may have received any part of said tax erroneously paid as determined by the judgment, it shall be the duty of said court of County Commissioners or other governmental body of the County, or the County Board of Education or of the city council or other governmental body of a municipality, or of the governmental body of any other agency receiving any part of such taxes to draw its warrant on the Treasurer of such county, school board, municipality, or other agency in favor of the taxpayer for such amount of said tax as may have been erroneously paid to such County, School Board, municipality or other agency, together with interest from date of payment. Such amounts shall constitute claims preferred over all other claims and the respective treasurers are hereby required to refund such amounts received by said County, School Board, municipality or other agency. In the event the judgment of the Court shall fix an assessment greater than that appealed from when the taxpayer has paid the taxes on the assessment appealed from, the Court shall fix and determine the amount of such excess and the taxpayer and the sureties on his appeal bond shall be adjudged to pay the taxes due by reason of such increased assessment with interest from the date of judgment and the lien and priorities of the State and counties shall apply to such additional amount as in other cases. The Court in fixing the assessment shall order the assessing authorities to apportion the same and the collecting authorities to collect taxes thereon for the several taxing subdivisions in the manner provided by law. Where the taxpayer elects to make supersedeas bond, and not to pay the taxes, the Court, in rendering final judgment shall order that interest at the legal rate shall be paid on such assessment as finally made from the date that such taxes would have become delinquent on the original assessment.

Section 104. Whenever any appeal is taken either by the State or the taxpayer, the State Tax Commission shall forthwith deliver to the Attorney General a certified copy of all necessary records and proceedings in such assessment and shall furnish all documents, memoranda or other information upon which such assessment was made and upon request of the Attorney General shall prepare a certified copy of any and all documents relating to such assessment. Any wilful failure of the State Tax Commission or its agents to furnish such information shall be a misdemeanor.

## ARTICLE V.

## PUBLIC UTILITIES.

Section 105. STATE TAX COMMISSION TO ASSESS ALL PUBLIC SERVICE PROPERTY.—It shall be the duty of the State Tax Commission to assess for taxation all property of all railroad companies, street and suburban railroad companies or persons or companies operating railroad or street railroads, or suburban railroads or sleeping cars in this State; all express companies, including railroad companies doing an express business and all telephone and long distance telephone and all telegraph companies, person or persons doing an express, telephone or telegraph business; all person or persons, firms or corporation doing a gas business, transporting gas, or furnishing gas, natural, manufactured or by-product, in or through pipes or in drums, tubes, cylinders or by any other method; all water, electric light or power, hydroelectric power companies, steam heat, refrigerated air, dockage or crannage, toll road, toll ferries, toll bridges, railroad equipment or navigation companies, pipe lines for transporting or furnishing natural, manufactured or by-product gas, water, oil, gasoline or other commodities of commerce and the property of all public service or public utility corporations, and all property not required by law to be listed for taxation with the county tax assessor; and the owner, president, general manager, agent, trustee, receiver or other person or persons having control of the company's affairs in this State shall make returns of all property of said company located in this State to the State Tax Commission. Provided, that if any sleeping car company shall pay the license or privilege tax of \$20,000 as provided by law, such company shall not be assessed for taxation under this Section.

Section 106. Between the first day of January and the first day of March in each year, every company, corporation, association and individual embraced within the provisions of the foregoing Section of this Article, or coming otherwise within its scope and intent, shall make out and deliver to the State Tax Commission of Alabama a statement containing the information hereinafter prescribed, which statement shall be duly verified by the affidavit of one of the officers of the company, corporation, or association, or by the individual in whose behalf it is made.

Section 107. Every person, firm or corporation whose property is required by this Act to be assessed for taxation by the State Tax Commission, and not herein otherwise specifically required to make reports to the said commission, shall on or before the first day of March of each year, make a report of all its property of every nature and character whatsoever, and such other and further infor-

mation upon such forms and in such manner as may be required by the State Tax Commission.

Section 108. Each such report shall show the following items and particulars as the same stood on the next preceding first day of October, together with any other facts or information that may be called for by said State Tax Commission. (1) The name and principal place of business of the company, corporation, association, or individual in whose behalf the statement is made, and the character of the business engaged in. (2) If a company, association, or corporation, the State or government under the laws of which it was incorporated, or authorized to do business, the date of original organization, the date of reorganization, consolidation or merger, and the purpose of its incorporation as expressed in its charter or articles of association. (3) The place where all books, papers and accounts are kept, and the names and post office address of the president, secretary, treasurer, superintendent, general manager, general counsel, directors, and all other general officers thereof. (4) The location of its principal office, the total amount and any kind of business done by it in this State, and the total gross receipts derived from its business in this State including a due proportion of its interstate business, if it has done any business of that character, and its total gross receipts from business done everywhere. (5) Its total authorized capital stock showing the number of shares of common stock authorized, issued and outstanding in hands of the public and in the company's treasury, separate from its preferred stock, and the par or face value of each of such shares. (6) Its total authorized preferred stock, showing each issue separately and setting out each issue to show the number of shares authorized, issued and outstanding in the hands of the public and in the company treasury and the rate of interest each issue bears. (7) The par value and the market and/or actual value of each issue of common stock and the dividends paid and the par value and market and/or actual value of each issue separately of preferred stock and interest paid on each issue. If the common or preferred stock is issued without par value then the number of shares authorized, issued, and outstanding in the hands of the public and in the company treasury must be shown giving the number of shares of each class separately and showing the amount received for the Common stock and the market and/or actual value thereof, and the amount received for each issue of preferred stock and the market and/or actual value of each such issue and in addition thereto must be shown for each of the issues separately the average market and/or actual value during the next preceding twelve months. If twenty-five per cent or more of the common stock is held by any one person, firm or corporation, give number of shares, name, address, relation and per cent of control of the person, firm or corporation holding such stock. If twenty-five per cent or more of the total

number of shares of the several issues of preferred stock is held by one person, firm or corporation, give number of shares, name, address and relation of the person, firm or corporation holding such stock. (8) A statement of each and every lien, mortgage and other charge upon the whole or any part of the property of said company, corporation or association, or individual, and a detailed statement of all series of bonds, debentures and other securities forming a part of its funded debt, with date of issue, maturity and rate of interest, together with a statement of the property encumbered or charged thereby, and of the total amount of unpaid debts secured by each mortgage, lien or charge, and of the interest charged thereon, and to what extent interest has been paid, and the true and fair value of every such debt. A statement of the gross income and earnings for the preceding fiscal year of the person, firm, corporation, or association including therein all interests on investments and all rents, profits, revenues and receipts from every source whatsoever, and a statement of the income used for repairs, and for betterments and the amount used for extension in this State. The amount of income paid in dividends on common stock and amount paid as interest specifying the amount of interest paid on each issue of preferred stock and upon each issue of bonds, or other forms of indebtedness, the amount set aside for depreciation, for obsolescence, for retirements and the amount passed to surplus. (9) A statement of the expense for the preceding fiscal year of the person, firm, corporation, or association, giving in detail the expense or other information of the different units, departments or subdivisions, taxes paid, itemized according to assessments, levies, or charges by the State, its counties, municipal corporations, school districts or other taxing districts, and to other states and to the federal government, on forms furnished by or in the manner required by the Commission. (10) If a person, firm or corporation by this Act required to make return to the State Tax Commission, keeps its records on a calendar year basis or on a fiscal year basis other than from October first to September thirtieth, it may make return of its financial matters required by this Act on basis of the calendar year or on basis of its fiscal year that ends nearest to October first, stating in each case the period covered. (11) If the person, firm, or corporation does business in other states, then in addition to the items called for in this article with respect to this State, the same items shall also be shown for the business or system as a whole. If any item called for in this article is prorated or allocated to this State, give the reason for such proration or allocation and the method so used.

Section 109. Whenever any person or association of persons, not being a corporation and having no capital stock, shall engage in this State in any character of business embraced within the provisions of this article, the capital and property, or the certificate or

other evidence of the rights or interest of the person engaged in such business shall be deemed and treated as the capital stock of such persons or association of persons, for the purpose of taxation and for all purposes under this Act, and shall be estimated and valued, and the intangible property values thereof, when ascertained, shall be apportioned and distributed and assessed and taxed under the provisions hereof, in like manner as if such person or association of persons were a corporation, and each such person or association of persons shall annually, within the time and the manner provided in this Article, make the statements and reports and give the information required by this Article of the aforesaid corporations, companies and associations, and shall be subject to all the penalties and to all the terms and provisions of this Article.

Section 110. Insofar as the other evidence and information adduced before said Commission does not make it appear to said commission improper or unjust for them to do so, the said commission shall, in fixing the true value of the entire property, tangible and intangible, of any company, corporation, association or individual embraced within the provisions of this Act consider as a factor the average net earnings, averaged over a period of five years and also take as a basis therefor the aggregate average market value or true value for the preceding year of all its shares of stock and add thereto the average market or true value for the preceding year of its entire indebtedness secured by any mortgage, lien, or other charge upon its property and assets, and the sum or sums so produced shall be treated and considered a factor in ascertaining the true value of said entire property, tangible and intangible for purpose of ad valorem taxation. The Commission may likewise consider the value of the individual units and items of property and the sum of the values of such units or items.

Section 111. On or before the first day of March of each year the president, secretary or auditor of any railroad company whose track or roadbed or any part thereof is in this State, or if such railroad is in the hands of a receiver or trustee, such receiver or trustee shall under oath, make to the State Tax Commission a return in writing of the total length of such railroad, including the right of way, roadbed, side tracks and main tracks in this State, specifying the total length in this State, and in each county, city or incorporated town, school district or other tax district in this State in which a special school tax or other tax is levied; and also of the number of locomotive engines or other units of motive power, and passenger, freight, construction and other cars of such company, for the entire system and the number of each allocated to this State, stating the method used in so allocating, and the location and a description of all other property owned by such company in the State of Alabama, and of the average amount of merchandise and supplies kept or carried on trains for sale or other disposition for prof-

it by such companies to employees or other persons in this State for the year next preceding the return.

Section 112. (a) The president, secretary, auditor or managing agent in this State of every telegraph or telephone company, whose line or any part thereof is located within this State, must annually, on or before the first day of March of each year, make under oath to the State Tax Commission return, and such reasonable detail as may be prescribed by such Commission on all the property belonging to such company in this State, and connected with the business, specifying the several counties in which such property is situated, and the items of property situated in each of such counties, towns and school districts.

Section 113. Every electric power, hydro-electric power, every telegraph, telephone or long distance telephone company shall include in each return made by it the following particulars: (a) The number of miles of right of way in the State belonging to such company, and the number of miles of right of way along public roads or on government land or on or along the streets of incorporated cities and towns used by such company, showing the number of miles of each class separately and by what authority such use is granted; (b) The total length of all transmission lines or telephone or telegraph lines, states by the number of miles of poles and the number miles of towers, whether poles are treated or untreated and description of towers as to size and height, the number of miles of wire, of each material constructed, stated according to the number of miles of each class and size of wire, the number of miles of conduit or of cable, stated according to the number of pairs of wire or other capacity. The voltage capacity of each electric transmission line shall be stated. (c) The total length of all lines of said company, whether within or outside of the State, and (d) The total length of so much of said lines as are within this State, and (c) The length of its lines in each of the counties, cities, towns, school districts or other tax districts of this State into or through which its lines extend, stated according to the number of miles of towers, the number of miles of poles, the number of miles of each class of wire and the number of miles of each size of conduit or cable. Electric transmission lines shall, in addition to the foregoing, state its mileage according to the voltage capacity of each line.

Section 114. Every water company, gas company and every pipe line company, shall show in each statement made by it the following particulars, which are in addition to the foregoing requirements, to-wit: (a) The total length of all lines of said company whether within or outside of the State, the total length of each size pipe and of what material each is constructed, and (b) The total length of so much of each of said lines as are within this State, and (c) The length of each size and kind of lines in each of the counties, cities, towns, school districts or other tax districts

of this State into or through which each size and kind of lines extend, or in which its distribution system, holders, reservoirs, stand-pipes, drums, tubes, cylinders, meters, services, or other means of storage or distribution is located or used. (d) The number of miles of right of way in the State belonging to such company and the number of miles of right of way along public roads, or on government land or on or along the streets of incorporated cities and towns used by such company, showing the number of miles of each class separately and by what authority such use is granted.

Section 115. Every sleeping car company, parlor or palace car company, dining car company, chair car company, equipment company operating cars of any kind for carrying passengers or serving meals over any railroad in this State, shall also in addition to the said foregoing requirements, show by each of its statements: (a) The total mileage traveled by the cars of said company during the next preceding twelve months, whether within this State or beyond its borders, and (b) The total mileage traveled by such cars within the State during the same period. Provided, that if any sleeping car company shall pay the license or privilege tax of \$20,000 as provided by law, such company shall not be assessed for taxation under this Section.

Section 116. All railroads, electric, hydro-electric, telephone and telegraph companies and all water, gas, street and interurban railroad companies and all docks, terminals, toll road, toll bridge and ferry companies and all other public utility companies must make return of each item of real estate describing by metes and bounds and giving number of acres in each tract or by lot and block number if in incorporated cities or towns, and of the improvements thereon, and all the buildings and structures, stating material of which constructed, and all machinery, fixtures and appliances, and all other tangible property and assets owned and assessed, or liable to assessment for the same year, within this State, and the location and assessed value thereof, and the county, city, town or school district, or other tax district wherein the same is assessed for taxation for State, county, municipal, school or other tax district purposes, or is liable to assessment, and whether or not it is specifically used in business of the company making the return.

Section 117. Every railroad company, shall in addition to the foregoing requirements, show in each statement made by it, the total length of all lines of said company whether within or outside of this State.

Section 118. A brief description of each tract of land and the improvements thereon, and of the buildings structures, machinery, fixtures and appliances, and all other tangible property and assets having a fixed situs outside of the State and the location of each item of such property, and the purpose for which it is used, and whether or not it is specifically used in the business of the com-



pany, corporation, or association, or individual in whose behalf the report is made, and its true and fair value, and the sum of the value at which it is assessed for taxation, and the locality in which it is assessed.

Section 119. Every express company shall also, in addition to the foregoing requirements show (a) Its total gross receipts from all business done under its charter, whether within this State, or outside thereof, during the next preceding twelve months, and (b) Its total gross receipts within this State for the same kind of business done during the same period, including a due proportion of receipts from interstate business, and (c) Its total gross receipts in each county or town in this State for the same kind of business done during the same period.

Section 120. The State Tax Commission of Alabama shall receive all such statements offered to it under the provisions of this Article, and shall endorse upon each the date upon which it was received, and sign the endorsement officially. It shall examine the statements as soon as may be practicable, and if any of them are found to be insufficient, or if said commission shall believe other or further information to be necessary, it shall at once demand such additional statements and information as it may think proper.

Section 121. The Commission shall proceed forthwith to examine the returns made by all persons, firms and corporations required by law to make the same, and also such information as the Commission may have obtained in addition thereto, and shall determine the valuation of the different items of property required to be returned to it, and shall assess such property for taxation at sixty per cent of its reasonable value; and in case no return has been made by or on behalf of such person, firm or corporations on or before the first day of March in each year, the Commission may add to the assessment which it makes against such person, firm or corporation a penalty of not exceeding twenty-five per cent of the assessment as made therefor. The assessment herein required to be made shall be completed before the first day of July, or as soon thereafter as practicable and reported to the tax assessor of every county in which any part of said tangible property is taxable under the provisions of this Act, a description of the property therein and the assessed value thereof apportioned to said county and the assessed value of such property in each city or town and each special school district or other district levying a district tax, and the name and residence or place of business of the owner and all other necessary particulars.

Section 122. The State Tax Commission shall carefully examine and consider said statements and information, and shall hear evidence and secure further and additional information as far as may be in its power, whenever it may deem it necessary to do so, to show the true value of properties of such corporations, associa-

tions, companies, and individuals, and the true value of that portion thereof which is situated within this State and within the respective counties, cities, towns, or other tax districts in this State; and each interested company, corporation, association or individual may appear before said commission and introduce material and relevant testimony before the same touching the true value of said property within this State and the apportionment thereof. From these statements, evidence and information adduced before it, the State Tax Commission shall ascertain, fix and determine the true value of such property, and of the portion thereof which is situated within this State, and the respective value of the several portions within the different counties and cities, towns and school districts, or other tax districts having a special assessment in this State, in which such portions are taxable and for that purpose said commission may require and compel by subpoenas to be issued by it, any person or persons, or the officers and agents, or any of them, of any company, corporation or association embraced by the provisions of this Act, to appear before it with such books, papers, documents, and information as the commission may require, and to submit themselves to examination by said commission, and it shall have all the powers with respect thereto conferred upon it by this Act.

Section 123. If at any time after the first day of March of any year the State Tax Commission shall not have in its possession satisfactory data upon which to base an estimate of the value of the property with the assessment of which it is charged, or from any other cause it is not able to make or complete any assessment, it shall have power to call upon any officer or agent of any person, firm or corporation, or upon any receiver or trustee in charge of the property of any person, firm or corporation, for any records, books, or documents of any description pertaining to the business of any such person, firm or corporation, for the answers to any interrogatories which it may deem necessary to an intelligent discharge of its duties; and it shall also have power to require the attendance of any officer of any corporation, or any other person where the testimony of such officer or person may to it seem material.

Section 124. That in arriving at the value of such taxable property whenever used in this Article or whenever required, the State Tax Commission, the tax assessors, deputy tax assessors, boards of review, or other assessing authorities and the courts shall be authorized to consider and may consider original costs, reproduction cost new less depreciation, recent sales of contiguous or similar property, the nature of the property, its location, whether in town, city or country, whether it is vacant or occupied, its proximity to local advantages, its use, its fitness for the use to which employed, or its fitness for other uses, the quality of soil, its growth of timber, its mines, minerals, coal beds, oil or gas

deposits, the amount and character of improvements thereon, the amount of insurance carried on each item of property, the gross and net income received therefrom during the year or years preceding the date of assessment, the market value of its shares of stock and/or bonds, if sold in the open market, or if not quoted on the open market, the value thereof, the amount of any bonded indebtedness, loans or mortgages upon it and any and all evidence and information that may be adduced before the assessing authorities or which he or it may procure, shedding light on the value of such property. Provided that in assessing any property where such information is obtainable and has or may have any bearing on the values of such property, the tax assessing authorities shall consider the average market and/or actual value of the stock and bonds of such companies during the preceding year and also shall take into consideration the estimated investment as returned by the duly authorized officer or employee of such company to the Public Service Commission, and/or to the Interstate Commerce Commission, Tennessee Valley Authority, Reconstruction Finance Corporation, or Railroad Credit Corporation, or other similar commissions, agencies or associations of the United States or this State, or value stated in folders, schedules or prospecti. Also any valuation made for rate making or other purposes of the Public Service Commission of the State, the Interstate Commerce Commission, or other state or governmental bodies.

Section 125. There shall be subject to taxation in this State the franchises, or intangible property and assets of each and every corporation, whether organized under the laws of this State or of any other state or government, and of each and every individual, association or partnership or company engaged as common carriers, wholly or partly in this State, in the business of transporting freight of any description or passengers, or both, over any railroad, including street railroads or of operating any cars of any kind over any railroads for the transportation of passengers or of property of any kind for others, or for the public, including sleeping cars, parlor or palace cars, chair cars, equipment cars of any kind, or engaged in the business of maintaining or operating for gain any telegraph or telephone lines, plant or business, or any plant or business for the production, transportation, piping, distribution or sale of natural gas, manufacture, distribution or sale of gas, by or through pipes, drums, tubes, cylinders, or other containers or conveyances, manufacture, distribution or sale of electricity, electric light, electric power, water, steam heat, and refrigerated air or other similar substance, including the piping of oil or gasoline, by means of wires, pipes or conduits constructed, operated or maintained on, over, under or through any territory or any street, alley, or highway in this State, or in the business of operating for gain any dockage, wharfage, canal, freight or passenger depots, boats,

barges, station or terminals, toll bridges, and toll ferries, or engaged in any business which may be dependent upon the grant of public powers or privileges, or which may involve the operation of any public utility; and of each and every individual, association, partnership, company or corporation which has and exercises, under authority granted by charter, statute or other provision of law, whether of this State, or any political subdivision thereof, or of any other state or government, any special or exclusive privilege, franchise or function, which is or may be dependent upon the grant of public power or privilege, or which involves the operation of any public utility. Provided that if any sleeping car company shall pay the license or privilege tax of \$20,000 as provided by law, such company shall not be assessed for taxation under this Section.

Section 126. Where the person, association, company or corporation operates a water system, express business, electric property, toll bridge, toll ferry, street or interurban railroad or railroad or car line of any kind, telegraph or telephone line, pipe line, gas line, or gas distributing system of any kind, docks or terminal companies or other public utilities, the lines or properties of which extend beyond the State, there shall also be deducted from the true value of the entire property, tangible and intangible, ascertained as above provided, the market or true value ascertained from the information furnished by said statements, if the value thereof be given in said statements, of all real and personal property of said person, association, company or corporation, not specifically used in its business, and the remainder shall be treated as the true value of all its property, tangible and intangible, actually used in its business. The State Tax Commission shall then ascertain and fix the value of the total property, tangible and intangible, in this State, by taking such proportion of the value of the entire property, tangible and intangible, of such persons, association, company or corporation, which is specifically used in its business, ascertained as provided by this Article, as its total lines or business within this State bear to the total lines or business both inside and outside this State, or as its total receipts from within this State, bear to its total receipts from both within and without the State. From the entire value of the property within this State, tangible and intangible, when ascertained as above provided, there shall be deducted the total value of the entire real and personal property of said person, association, company or corporation in this State, and sixty per cent of the residue and remainder of value shall be by the said State Tax Commission fixed and determined as the true value for taxation of the franchise or intangible property of such person, association, company, or corporation, so operating said water system, express business, electric property, toll bridge, toll ferry, street or interurban railway, or railroad, car line, telegraph line, telephone line, pipe line, gas line or gas distributing properties, docks

or terminal companies or other public utilities, made subject to taxation by the provisions of this Act.

Section 127. After computing the valuation of the tangible and/or intangible property, of a public utility taxpayer, the State Tax Commission shall give notice in writing by registered mail, return receipt demanded, addressed to, or by personal service on any officer, agent or attorney, superintendent, cashier, manager, or the owner, or receiver or trustee of said tangible and/or intangible property, stating the tentative valuation of the tangible and/or intangible property, fixed by it and on a day specified it will meet and determine any complaint against said valuation, which notice must be served at least ten days before the day fixed for the hearing.

Section 128. At the hearing the owner may file a statement under oath, specifying the respect in which the valuation is incorrect, upon which testimony may be taken and a full investigation had. Should the taxpayer not appear for the hearing on the date set in the notice or on the date agreed upon for holding same the value of the tangible and/or intangible property shall be made final in the amount stated in the tentative notice and no further notice shall be given. If on conclusion of the hearing herein provided for, the State Tax Commission and the public utility taxpayer do not agree on the assessed value of the tangible and/or intangible property, the State Tax Commission shall serve notice on the taxpayer as above provided, setting out the assessed value of such property as made final by the Commission. Either the public utility taxpayer or the State may, appeal from any assessment made by the State Tax Commission, in the manner provided for appeals from assessments made by the State Tax Commission by this Act.

Section 129. From sixty per cent of the value of said entire property, tangible and intangible, thus ascertained, there shall be deducted the assessed value of the entire tangible real and personal property of such persons, associations, company or corporation, and the remainder of the true value shall by said State Tax Commission be fixed and determined as the true value for taxation of the franchise, or intangible properties owned and held by said persons, associations, company or corporation and made subject to taxation by the provisions of this Act, where the business and property of such persons, association, company or corporation is within this State.

Section 130. Every individual, association, partnership, company, and corporation engaged in any business embraced or set out in the preceding sections shall, in addition to the ad valorem taxes on the tangible property which are now imposed upon them by law, annually pay to the State, and there is levied a tax for each year, on their franchises or intangible property and assets, and local

taxes thereon to each county and municipal corporation, school district, and other tax district in which its or their business is or shall hereafter be carried on. Said tax shall be at the same rate as the tax on tangible property, and shall be and become due and delinquent at the same time as the taxes on tangible property, and be payable and collected in the same manner; and shall be assessed and levied in the manner herein provided. The place or places where such local taxes on such property are to be paid, the manner of the apportionment of the same in cases where more than one jurisdiction is entitled to a share of such tax, shall be determined and the valuation of such property for taxation shall be ascertained in accordance with the provisions of this Act.

Section 131. The State Tax Commission shall apportion the value of such franchise or intangible property thus ascertained as in this Act provided, among and between the counties, and cities, towns, school districts or other tax district having a special assessment, in which such person, associations, company or corporation does business, in proportion to the amount of business done in and receipts derived from each locality, except that in case of a railroad or railway company, which apportionment shall be on single track main line basis, telephone or telegraph companies and electric power companies on pole or wire mileage, pipe lines and car companies other than express companies on mileage basis.

Section 132. The said property shall thereupon be entered by the county tax assessor and the local authorities of such city or town for taxation in like manner as other property, and shall be taxed and the taxes thereon shall be collected as in the case of other property.

Section 133. So long as any corporation, company or association shall pay all ad valorem taxes on said intangible property required by law, the individual stock holders thereof shall not be required to list their shares of stock for taxation, or to pay ad valorem taxes on said shares.

Section 134. In any assessment by State, county or municipal authority of the franchise or intangible property of any person, association, company or corporations subject to the provisions of this Act, it shall be sufficient to describe the franchise or intangible property herein made subject to taxation on the assessment books or rolls as intangible property in (here give name of county, city, town, school district or other tax district) of the franchise or intangible tax of (name of owner of such franchise or intangible property.)

Section 135. Every person and association of persons, and every company, corporation, or association embraced within the provisions of this Article, which shall fail to make the return and statement herein provided within the time herein limited or within the time allowed by the State Tax Commission, or which after reason-

able notice shall fail to give any additional evidence, or to furnish any additional information required by the State Tax Commission by authority of this Article, shall forfeit and pay to the State the sum of fifty dollars for every day during which it shall continue to default, which shall be recovered by suit in any court of competent jurisdiction in Montgomery county, Alabama.

Section 136. If any person, association, company or corporation embraced within the provisions of this Article shall fail to make the returns and statements, or any of them, required by the provisions of this Article, or to furnish any other information lawfully required of it, within the time limited, the State Tax Commission must procure the necessary information from some other sources upon which to base an ascertainment of the values of the tangible and/or intangible property or franchise of such person, association of persons company or corporation, and shall proceed to ascertain the value of such property.

Section 137. If the property of any person, association, company or corporation shall be in the hands of any receiver, assignee, trustee in bankruptcy, or other person holding under any court, or for the benefit of any creditor or creditors, then the statements, reports, information, books and papers aforesaid shall be furnished by said receiver, assignee, trustee, or other person, or by some officer, or agent acting under him, in the same manner and to the same extent as is hereinbefore provided in cases where the individual, or the corporation, company or association is in possession.

Section 138. (a) The State Tax Commission after having first determined and fixed the true value of any property within this State of individuals, companies, corporations and associations, embraced within and in accordance with the provisions of this Article, shall annually on or before the first day of July, or as soon thereafter as practicable, report to the tax assessor of every county and to the proper local authorities of each municipality in this State in which any part of said property is taxable hereunder, giving a general description of the property, the value of such property apportioned to said county and to said municipality, school district, or other district having a special assessment, and the name and residence or place of business of the owner, and all other necessary particulars. (b) The Assessor must enter in the book of assessments in addition to the assessment of other real estate or personal property to be assessed as other taxable property owned by private citizens of his county, the property with description and value as reported to him by the State Tax Commission. (c) The State Tax Commission shall also send to the owner or operator of such property so assessed a copy of its notification to the tax assessor touching assessment.

Section 139. Any person, firm, joint stock association or corporation, wherever organized or incorporated, engaged in business

of operating, renting, leasing, or furnishing cars not otherwise listed for taxation in this State, for the transportation of freight, whether such freight is owned by such company, or any other person, firm, joint stock association or corporation, over any railroad or railway line or lines in whole or in part within this State, such line or lines not being owned, leased or operated, by such person, firm, joint stock association or corporation, whether such cars be termed box, flat, coal, ore, tank, stock, gondola, furniture, automobile, refrigerator, or some other name, shall be deemed to be a freight line or equipment company. Every freight line or equipment company doing business, owning, operating, renting, leasing, or furnishing cars which are operated in this State shall, on or before the first day of March each year make and file with the State Tax Commission on form or forms prescribed by the State Tax Commission, a statement under oath by its president, secretary, treasurer, superintendent, manager, receiver, trustee or owner; showing the number of miles run by all its cars over the line or lines of each separate railroad or railway in this State, naming each separate railroad or railway, and the total number of miles run by all of its cars over all line or lines of all railroads or railways in this State, and the total number of miles run by its cars over line or lines or railroads or railways everywhere outside of this State, such mileage to be shown as made for the twelve months period preceding October first of each year. There shall be shown on statement, the principal place of business, together with the street address of each freight line or equipment company, together with name and address of persons to whom correspondence or tax notice should be sent. It shall be the duty of the State Tax Commission to examine the statement of each freight line or equipment company, and the reports of each railroad or railway company over whose lines such freight line or equipment moved, and from such statements and reports compute the average number of cars within the State, of each freight line or equipment company for the twelve months preceding October first of each year; for the average number of cars found to be in the State for such twelve months period, the reasonable value of such cars shall be computed and the sum total value of the average number of cars shall be reduced to sixty per cent thereof. It shall be the duty of the State Tax Commissioner to levy a license tax of two per cent of the sixty per cent value of the average number of cars within the State for the period of twelve months preceding October first of each year. When the State Tax Commission has completed its examination of the statements, made by freight line or equipment companies and reports made by railroad or railway companies, it shall give notice in writing to each freight line or equipment company, showing the average number of its cars found to be in the State for the period covered, the aggregate value



of such average number of cars, and the aggregate value of such cars reduced to sixty per cent and the amount of tax due the State thereon, and shall set a date in such notice upon which such freight line or equipment company, through its officers or attorneys may appear and present any evidence relating to the case or looking to adjustment thereof. Should no appearance be made on date set for hearing, the finding of the State Tax Commission shall become final and the amount of tax named in notice shall be immediately due and shall be delinquent thirty days from date set for hearing. The tax shall be paid to the State Tax Commission, by check made payable to the State Treasurer, and the license tax so paid, shall be placed to the credit of the State General Fund. If any freight line or equipment company is dissatisfied with the findings of the State Tax Commission it may, after hearing is had on date set in notice, appeal in the manner provided for appeals from assessments made by State Tax Commission. Should any freight line or equipment company fail or refuse to make the statement or statements as above required on or before March first of each year, the State Tax Commission shall obtain the facts from the best information available and must assess against such freight line or equipment company so failing or refusing to make the statements required, a penalty of double the amount of tax assessed. Should any freight line or equipment company fail or refuse to pay the tax assessed after same becomes delinquent, the State Tax Commission shall collect as a penalty three times the amount of the tax assessed and may institute suit for such collection as provided by law. Each railroad or railway company in this State shall also, annually before the first day of March of each year, make and file with the State Tax Commission, under oath of some executive officer, of the company, and on forms prescribed by the State Tax Commission, a report containing as to all its lines in Alabama, all the data required of freight line or equipment companies, and any additional information deemed necessary by the State Tax Commission. Any person, firm, corporation or association, operating, renting, leasing or otherwise furnishing cars as above mentioned, except a regularly organized and operated railroad, is deemed to be a freight line equipment company.

Section 140. For each person, operating a public utility, such as street railroad or interurban railroad operated by electricity or other motive power, water works, gas company, pipe lines company for transporting or carrying gas, oil, gasoline, water or other commodities, gas distributing companies whether by means of pipe line or by tanks, drums, tubes, cylinders or otherwise, heating companies or other public utility, except electric, hydro-electric telephone or telegraph companies, railroad or sleeping car companies and express companies, which are otherwise licensed shall pay to the State a license tax equal to two mills on each dollar of gross

receipts of such public utility in this State for the preceding year. For the first year's business (1) where an existing public utility is taken over, such license tax payable to the State shall be equal to two mills on each dollar of the gross receipts for the preceding year of the public utility taken over, less whatever sum the prior operators have paid as such license tax on the gross receipts for that year. (2) Where no existing public utility is taken over such license tax for the first year, as well as for the second year, shall be based upon the first year's business, but shall in no event be less than one hundred dollars (\$100.00) for the first year's business, provided where business is started after April first the payment shall be not less than fifty dollars (\$50.00). Any person establishing a new public utility shall pay to the State the sum of one hundred dollars where operation is begun between October first and April first, and fifty dollars when operation is begun after April first, and shall also at the same time execute a bond, payable to the State of Alabama, to insure payment of whatever sum, in addition to the one hundred dollars, (\$100.00), or fifty dollars (\$50.00), which may be due when at the end of the first year or if operation begun after April first the amount of the gross receipts are ascertainable. Such license tax shall be paid to the State Tax Commission by check made payable to the State Treasurer and shall be due on October first and delinquent on October fifteenth of each year, based upon gross receipts for the preceding year or half year, if operations begun after April 1st. The payment of such license shall be accompanied by a sworn statement made on forms furnished by the State Tax Commission, by the president, manager, or operating officer of the public utility or by the owner, receiver or trustee thereof, giving the name of the person, firm or corporation owning and operating said public utility, and the principal place of business thereof, showing the gross receipts of such public utility for the preceding year. The books, of every person operating a public utility shall be at all times open to the inspection of the State Tax Commission. Any person failing to make such sworn statement or wilfully making a false statement of the gross receipts of such public utility shall be guilty of a misdemeanor, and upon conviction therefor shall be fined not exceeding five hundred dollars (\$500.00), and shall also forfeit to the State three times the amount of the license on said utility, but no license under this schedule shall be paid to the county or counties. The maximum amount of privilege or license tax which the several municipalities within the State may annually assess and collect of persons, operating (electric, hydro-electric) street railroad, electric light and power companies, gas companies, water works companies, pipe line companies for transporting or carrying gas, oil, gasoline, water or other commodities, gas distributing companies whether by means of pipe lines or by tanks, drums, tubes, cylinders, or otherwise,

heating companies or other public utility, incorporated under the laws of this State or any other State, or whether incorporated at all or not, shall not exceed two per cent of the gross receipts of the business of such persons, in the municipality for the preceding year. Provided that this shall not affect any existing contract between any municipality and any public utility operating therein.

Section 141. Each person, firm or corporation operating an electric or hydro-electric public utility shall pay to the State a license tax equal to four mills on each dollar of gross receipts of such public utility for the preceding year. For the first year's business where an existing electric public utility is taken over such license tax payable to the State shall be equal to four mills on each dollar of the gross receipts for the preceding year of the electric utility taken over, less whatever sum the prior operators shall have paid as such license tax on the gross receipts for that year. Where no existing electric public utility is taken over, the license tax for the first year upon such utility shall be based upon the first year's business, but shall in no event be less than one hundred dollars (\$100.00) for the first year's business. Any person, firm or corporation establishing a new electric public utility shall pay to the State the sum of one hundred dollars (\$100.00) and shall also at the same time execute a bond payable to the State of Alabama to insure payment of whatever sum in addition to such one hundred dollars may be due when, at the end of the first year, the amount of gross receipts for the year is ascertainable. Such license tax shall be paid to the State Tax Commission by check payable to the State Treasurer and the application for such license shall be accompanied by a statement made by the president or manager of the public utility or by the owner thereof, giving the name of the person, firm or corporation owning and operating such public utility and the principal place of business thereof, together with a statement under oath of the amount of gross receipts of such public utility for the preceding year. The books of every person, firm or corporation operating such public utility shall be at all times open to the inspection of the State Tax Commission. Any person failing to make such sworn statement or wilfully making a false statement of the gross receipts of such public utility shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not exceeding Five Hundred Dollars (\$500.00), and shall also forfeit to the State three times the amount of the license for such public utility; but no license under this schedule shall be paid to the county or counties.

Section 142. In addition to all other taxes of every kind now imposed by law or otherwise imposed by this Act, there is hereby levied a license or privilege tax upon each person, firm, corporation, agent or officer, engaged in the business of manufacturing and selling hydro-electric power in the State of Alabama for the

privilege of engaging in such business; said license or privilege tax shall be due and payable in advance on the first day of October of each year, and shall be in sum equal to Two-Fifths of a Mill ( $\frac{2}{5}$ ) upon each kilowatt hour of hydro-electric power manufactured and sold during the preceding calendar year.

Section 143. In addition to all other taxes imposed by this Act, there is hereby levied a license or privilege tax upon each person engaged in the business of operating a railroad in the State of Alabama for the privilege of engaging in such business; said license tax or privilege tax shall be due and payable annually in advance on or before the first day of October of each year to the State Tax Commission by check made payable to the State Treasurer, and shall be in a sum equal to two and one-half ( $2\frac{1}{2}$ ) per cent of the gross receipts of such railroad from all intrastate business of such railroad within the State of Alabama during the preceding year; the gross intrastate earning to be determined by the amount received from intrastate business and from business originating at points in Alabama destined to other points in Alabama, although carried through another State, said last named earnings to be apportioned on the basis of earnings per mile carried. Provided, however, that this Section shall not apply to what is commonly known and called street railways, or to any independently owned and operated railroad whose gross receipts did not exceed three hundred thousand dollars during the preceding year, or which is less than fifteen miles in length, when such railroad is not owned, operated or controlled directly or indirectly by any other railroad corporation, and if one line of railroad is owned, controlled or operated by another railroad company owning, operating or controlling railroad trackage within this State then the gross intrastate receipts and mileage during the preceding fiscal year of both or all of such lines shall be added together to determine whether any of such lines are within the exception.

143. 2. The maximum amount of privilege or license tax which the several municipalities within this State may annually assess and collect of persons operating railroads in this State as common carriers, for the privilege of doing intrastate business within the limits of such municipalities, whether such companies are incorporated under the laws of this State or any other state, or whether incorporated at all or not is hereby prescribed and fixed as follows:—In municipalities of not exceeding two hundred and fifty inhabitants, ten dollars; in municipalities having a population of more than two hundred and fifty and not exceeding five hundred, fifteen dollars; in municipalities having a population of more than five hundred and not exceeding seven hundred and fifty, twenty dollars; in municipalities having a population of more than seven hundred and fifty and not exceeding one thousand, twenty-five dollars; in municipalities having a population of more than

one thousand and not exceeding five thousand, twenty-five dollars for the first one thousand inhabitants, and twenty-five dollars for each additional one thousand inhabitants or a majority fraction thereof; in municipalities having a population of more than five thousand, and not exceeding ten thousand, twenty-five dollars for the first one thousand inhabitants and thirty dollars for each additional one thousand or majority fraction thereof; in municipalities having a population of more than ten thousand, twenty-five dollars for the first one thousand inhabitants and thirty-five dollars for each additional one thousand inhabitants or majority fraction thereof; but in no case shall any municipality assess or collect such a privilege or license tax exceeding two thousand dollars. In arriving at the amount of privilege or license tax which may be assessed and collected under the provisions of this section, the population of the several cities and towns shall be computed and based upon the federal census next preceding the year for which such license tax is assessed from year to year. Provided, that if a municipality should be incorporated subsequent to any federal census, the population shown in the charter of incorporation shall determine the amount of the license due, until the next federal census shall find and declare such population.

Section 144. In all cases where a public utility is required under this Act to pay a privilege or license tax on gross receipts, such public utility shall make report to the State Tax Commission of such gross receipts to which such tax is applicable in a manner and form which will show the correct and true amount of such gross receipts upon which the tax is computed.

Section 145. In addition to all other taxes imposed by this Act, there is hereby levied a license or privilege tax upon each person, engaged in the telephone business in the State of Alabama for the privilege of engaging in such business, said license or privilege tax shall be due and payable annually in advance on or before the first day of October of each year to the State Tax Commission by check made payable to the State Treasurer and shall be in a sum equal to four (4%) per cent of the total gross receipts of such telephone company from all the intrastate business within the State of Alabama during the preceding calendar year. The gross intrastate earnings to be determined by the amount received from intrastate business and from messages originating at points in Alabama destined to other points in Alabama although transmitted through another state, said last named earnings to be apportioned on the basis of earnings per mile transmitted. Provided, however, that each person, firm or corporation operating a telephone system be allowed a credit of fifty thousand dollars of its gross receipts before computing the tax required by this Section.

145. 2. TELEPHONE COMPANIES.—The maximum amount of privilege or license tax which the several municipalities

within this State may annually assess and collect of person, operating telephone exchanges and long distance telephone lines in this State, for the privilege of doing intrastate business within the limits of such municipalities, whether such persons are incorporated under the laws of this State or any other state is fixed as follows: In municipalities having not exceeding five hundred inhabitants, exchange license, ten dollars, long distance license, five dollars; in municipalities having a population of more than five hundred and not exceeding one thousand, exchange license, twenty dollars, long distance license, five dollars; in municipalities having a population of more than one thousand and not exceeding two thousand, exchange license, forty dollars, long distance license, ten dollars; in municipalities having a population of more than two thousand and not exceeding three thousand, exchange license, seventy dollars, long distance license, seventeen dollars and fifty cents; in municipalities having a population of more than three thousand, and not exceeding four thousand, exchange license, one hundred dollars, long distance license, twenty-five dollars; in municipalities having a population of more than four thousand and not exceeding five thousand, exchange license, one hundred and forty dollars, long distance license, thirty-five dollars; in municipalities having a population of more than five thousand and not exceeding six thousand, exchange license, one hundred and eighty dollars, long distance license, forty-five dollars; in municipalities having a population of more than six thousand and not exceeding seven thousand, exchange license, two hundred and twenty dollars, long distance license, fifty-five dollars; in municipalities having a population of more than seven thousand, and not exceeding eight thousand, exchange license, two hundred and sixty dollars, long distance, sixty-five dollars; in municipalities having a population of more than eight thousand and not exceeding nine thousand, exchange license, three hundred dollars, long distance license, seventy-five dollars; in municipalities having a population of more than nine thousand and not exceeding ten thousand, exchange license, three hundred and forty dollars, long distance license, eighty-five dollars; in municipalities having a population of more than ten thousand and not exceeding eleven thousand, exchange license, three hundred and eighty-dollars, long distance license ninety-five dollars; in municipalities having a population of more than eleven thousand and not exceeding eleven thousand, exchange license, four hundred and twenty dollars, long distance license, one hundred and five dollars, in municipalities having a population of more than twelve thousand and not exceeding thirteen thousand, exchange license, four hundred and sixty dollars, long distance license, one hundred and fifteen dollars; in municipalities having a population of more than thirteen thousand and not exceeding fourteen thousand, exchange license, five hundred dollars, long distance license,

one hundred and twenty-five dollars; in municipalities having a population of more than fourteen thousand and not exceeding fifteen thousand, exchange license, five hundred and forty dollars, long distance license, one hundred and thirty-five dollars; in municipalities having a population of more than fifteen thousand and not exceeding sixteen thousand, exchange license, five hundred and eighty dollars, long distance license, one hundred and forty-five dollars; in municipalities having a population of more than sixteen thousand and not exceeding seventeen thousand, exchange license, six hundred and twenty dollars, long distance license, one hundred and fifty-five dollars; in municipalities having a population of more than seventeen thousand and not exceeding eighteen thousand, exchange license, six hundred and sixty dollars, long distance license one hundred and sixty-five dollars; in municipalities having a population of more than eighteen thousand and not exceeding nineteen thousand, exchange license, seven hundred dollars, long distance license, one hundred and seventy-five dollars; in municipalities having a population of more than nineteen thousand and not exceeding twenty thousand, exchange license, seven hundred and forty dollars, long distance license, one hundred and eighty-five dollars; in municipalities having a population of more than twenty thousand and less than one hundred and seventy-five thousand, exchange license, seven hundred and forty dollars for the first twenty thousand inhabitants and forty dollars for each additional one thousand inhabitants or majority fraction thereof, up to one hundred and seventy-five thousand population; long distance license, one hundred and eighty-five dollars for the first twenty thousand inhabitants, and ten dollars for each additional one thousand inhabitants, or majority fraction thereof, up to one hundred and seventy-five thousand population; in municipalities having a population of more than one hundred and seventy-five thousand, exchange license, eight thousand dollars; long distance license, two thousand dollars; In arriving at the assessment of privilege or license tax which may be assessed and collected under this Section, the population of the several cities and towns shall be computed and based on the federal census next preceding the year for which such license tax is assessed, from year to year. Provided that if a municipality should be incorporated subsequent to any federal census, the population shown in the charter of incorporation shall determine the amount of license due, until the next federal census shall find and declare such population.

Section 146. Each person engaged in the business of operating in this State a telegraph system or telegraph line for hire, and without reference to its interstate commerce or governmental business which it is not proposed to tax, shall pay, in addition to all other taxes of every kind imposed by this Act, to the State Tax Commission by check made payable to the State Treasurer on or

before the 15th day of October of each year a license or privilege tax based on the mileage of the telegraph line, or lines, operated by it in the State as follows: Each telegraph company whose lines within the State do not exceed one hundred and fifty (150) miles shall pay at the rate of one dollar and fifty cents (\$1.50) per mile; each telegraph company whose lines within the State exceed one hundred and fifty miles shall pay five hundred dollars (\$500.00), together with one dollar and fifty cents (\$1.50) for each additional mile of such lines within this State; and no telegraph company which has paid the license or privilege tax herein required shall be liable to pay any license or privilege tax to counties, and shall not exempt its real estate, fixtures and other property, which shall be subject to taxation as other property in the State nor shall such payment exempt such corporation from the payment of franchise or income tax. The payment of such license or privilege tax to the State Tax Commission shall be accompanied by a sworn report, showing the number of miles of telegraph lines operated by such company in this State and in default of such payment or the making of such report for thirty days after the first day of the fiscal year, a penalty of double the amount of such tax shall be imposed upon and collected of each defaulting company.

146. 2 In addition to said amount paid to the State as aforesaid for State purposes there may be levied and collected by the several towns and cities in the State from said telegraph company or companies, for the privilege of doing intrastate business within the municipal limits a privilege or license tax to be computed and based on the population of said cities as fixed by the last Federal census, to-wit: (a) In municipalities having a population of one thousand people, or less than this number, five dollars per annum; (b) In municipalities having a population of over one thousand, and not exceeding five thousand, twenty-five dollars per annum; (c) In municipalities having a population of over five thousand, and not exceeding ten thousand, fifty dollars per annum; (d) In municipalities having a population of over ten thousand and not exceeding twenty-five thousand, one hundred dollars per annum; (e) In municipalities having a population of over twenty-five thousand, and not exceeding fifty thousand, two hundred fifty dollars per annum; (f) In municipalities having a population exceeding fifty thousand, five hundred dollars, per annum; (g) The license or privilege taxes above provided which shall be paid to the several towns and cities, according to population as above stated, shall be in lieu of all other license or privilege taxes required of said telegraph companies, by any municipal authority thereof.

Section 147. In addition to all other taxes of every kind imposed by this Act, there is hereby levied a license or privilege tax upon each person engaged in the business of operating an express



company in the State of Alabama for the privilege of engaging in such business; said license or privilege tax shall be due and payable to the State Tax Commission by check made payable to the State Treasurer annually in advance, on or before the first day of October of each year, and shall be in a sum equal to two and one-half ( $2\frac{1}{2}$ ) percent of the gross receipts of such express company from all the intrastate business within the State of Alabama during the preceding calendar year.

147. 2 In addition to said amount paid to the State as aforesaid for State purposes, there may be levied and collected by the several towns and cities of the State from said express company or companies for the privileges of doing business within the municipal limits a privilege or license tax to be computed and based on the population of said cities, as fixed by the last Federal census, as follows, to-wit: (b) In municipalities having a population of five hundred people or less than this number, two dollars and fifty cents, per annum; (c) In municipalities having a population of over five hundred people, and not exceeding one thousand, fifteen dollars per annum; (d) In municipalities having a population of over one thousand and not exceeding two thousand, twenty-five dollars per annum; (e) In municipalities having a population of over two thousand and not exceeding three thousand, thirty-five dollars, per annum; (f) In municipalities having a population of over three thousand and not exceeding four thousand, forty-five dollars per annum; (g) In municipalities having a population of over four thousand and not exceeding five thousand, seventy-five dollars per annum; (h) In municipalities having a population of over five thousand and not exceeding ten thousand, one hundred and twenty-five dollars per annum; (i) In municipalities having a population of over ten thousand and not exceeding fifteen thousand, one hundred and seventy-five dollars per annum; (j) In municipalities having a population of over fifteen thousand and not exceeding twenty thousand, two hundred dollars per annum; (k) In municipalities having a population of over twenty thousand and not exceeding twenty-five thousand, two hundred and fifty dollars per annum; (l) In municipalities having a population of over twenty-five thousand and not exceeding thirty thousand inhabitants, three hundred dollars per annum; (m) In municipalities having a population of over thirty thousand, five hundred dollars per annum; (n) The license or privilege taxes above provided shall be paid to the several towns and cities according to population as above stated, and shall be in lieu of all other license or privilege taxes required of said express companies by any municipal authority thereof. ( Provided, that if a municipality should be incorporated subsequent to any Federal census, the population shown in the charter of incorporation shall determine the amount of the

license due until the next Federal census shall find and declare such population.

Section 148. There is hereby levied and shall be collected from every person doing an express business between points wholly within this State and without reference to its interstate business, whether incorporated under the laws of this State or any other State, or whether incorporated at all a license or privilege tax of Four Thousand Dollars (\$4,000.00), which shall be paid to the State Tax Commission by check made payable to the State Treasury by said company on or before the expiration of the fifteenth day of each fiscal year, provided that any express company which operates on less than fifty miles of railroad, street railway, motor line or boat line, shall pay an annual tax of Two Hundred and Fifty Dollars (\$250.00), and Provided, that any express company which operated on fifty miles of railroad, street railway, motor line or boat line, and less than two hundred miles of railroad, street railway, motor line or boat line, shall pay an annual license of Five Hundred Dollars (\$500.00); and provided further, that all express companies that operate on two hundred and not over five hundred miles, shall pay an annual tax of Two Thousand Five Hundred Dollars (\$2,500.00) It is not intended that the taxpayer under Section 147 and 148 of Article V of this act shall pay both the taxes therein mentioned, but that the tax payer shall pay the larger of the two. Provided, however, the tax levied by Sec. 148 shall not apply to bus lines which pay a license, mileage tax and the tax prescribed in Sec. 147 and which carry express as a regular part of their business of hauling passengers.

Section 149. Every person who engages in the business of operating cars usually termed sleeping, palace, parlor, chair, buffet cars or by whatever name called shall be deemed to be a sleeping car company or association engaged in the business of operating or running sleeping cars (except railroads operating their own sleeping cars and diners) and doing business in the State of Alabama and shall annually pay in advance on or before the first day of January of each year to the State of Alabama a license or privilege tax in the sum of Twenty Thousand Dollars (\$20,000.00).

Section 150. If the State Tax Commission is not satisfied as to the amount of tax remitted to it by any tax payer required herein to pay a tax directly to the State Tax Commission it shall forthwith advise such taxpayer and adjust such differences as soon as practicable.

Section 151. The State Tax Commission shall upon receipt of any amount of money due for tax on gross receipts of any Public Utility, mail to such utility paying the tax a receipt therefor. Such a receipt shall state specifically the section or schedule of this Act levying the tax for which such receipt is given.

Section 151-1/2. No county shall levy a privilege or license tax on any business or occupation on which a privilege or license tax is levied by Sections 139, 140, 141, 142, 143, 145, 146, 147, 148, and 149 of Article V of this Act.

## ARTICLE VI

### TAX COLLECTORS.

Section 152. That the term of office of all county tax collectors be as provided by Section 19 (a) of this Act.

Section 153. A Tax Collector for each county in the State shall be elected as provided for in Section 19 (b) of this Act.

Section 154. Before assuming office the Tax Collector must execute bonds in duplicate, with good and sufficient sureties, either with a surety company, or with not less than two personal sureties, payable to the State of Alabama, in an amount not less than the largest amount of collected taxes had on hand at any time during preceding fiscal year, to be determined for every county by the State Comptroller. Such bond to be approved by the State Comptroller, conditioned faithfully to discharge the duties of his office, which are or may be required of him by law during the time he continued therein, or discharges any of the duties thereof. One of such duplicates shall be filed and recorded in the office of the Judge of Probate, and the other shall be filed in the office of the State Comptroller, on or before the first day of September next after his election. A new bond or bond for an additional amount may be required whenever in the judgment of the State Comptroller the public welfare demands such action. The cost of the bond required herein, if made by a surety company, shall be paid out of the general funds of the county on warrant of the court of County Commissioners, or Court of like jurisdiction, and same shall be a preferred claim against the County. The provisions of this Section shall not apply where the same, or any part thereof, shall be in conflict with the provisions of any special or local law now in force or hereafter adopted.

Section 155. Such bond shall operate from the date of its execution as a lien in favor of the State and county, on the property of the Tax Collector, and for a period of the term or terms of his office and six years thereafter, for the amount of any judgment that may be rendered against the Tax Collector for the breach of any official duty; and any new or additional bond, given in pursuance of the law by the Tax Collector shall be and operate as a like lien.

Section 156. The Tax Collector shall also before entering upon the discharge of the duties of his office, file in the office, of the judge of probate of his county, an oath in writing that he will faithfully

and diligently discharge all duties which are or may be imposed upon him by law, and such oath must also be recorded.

Section 157. The Tax Collector shall keep his office open at the court house all the year round. In all counties of the State the Tax Collector shall be required between the first day of October and the first day of January in each year to visit each precinct in the county by himself or by deputy, to collect the taxes, and he shall give the same notice of such appointments as is given by the Tax Assessor. The court of county commissioners or other court of like jurisdiction may by order duly entered on the minutes relieve the Tax Collector from making the visits to each voting place above provided for when in the judgment of the court it is deemed advisable and shall by order specify the places in the county which the Tax Collector shall visit.

Section 158. The Tax Collector is authorized to appoint deputies, and the acts of such deputies shall be recognized as his acts, and he shall be responsible for any loss sustained by any taxpayer, or by the State or County, by reason of the acts done by such deputies in the line of their powers and duties. Such deputies shall receive no compensation for their services out of the State or county revenue, except as otherwise provided by law.

Section 159. In all counties where county officials are paid on a salary instead of a fee basis, all fees allowed under the terms of this Act to be paid to or collected by county officials, shall, by said officials be paid into the county treasury, or to such officials performing the duties of County Treasurer.

Section 160. Whenever the terms "county commissioners", "court of county commissioners", or "boards of revenue" are used in this Act they shall be meant to include "boards of road and revenue commissioners".

Section 161. TAX COLLECTORS COMMISSIONS. The Tax Collector shall, during the current term of the present incumbent of said office be paid commissions as now provided by law, after the expiration of the present term of the present incumbent of the office of tax Collector; the tax collector shall be entitled to receive commissions on taxes collected by him, not including taxes on real estate bid in by the State at tax sale as follows: In counties where collections not including taxes on real estate bid in by the State at Tax sale, do not exceed twelve thousand dollars, the rate of commission shall be eight per cent on the first thousand dollars, four per cent on the second thousand dollars, and two per cent on the remainder. In counties where the collections, not including taxes on real estate bid in at tax sales by the State, exceed twelve thousand dollars, the commissions shall be as above declared up to twelve thousand dollars, and one and one-half per cent on the remainder up to sixty thousand dollars,

and all above sixty thousand dollars, one per cent. He shall also be entitled to receive two per cent on all collections made by him of special taxes, whether such special taxes be levied for the State or County, to be paid out of such special taxes. The Tax Collector shall receive two per cent commission on all special county or district taxes levied for school purposes. The Collector may retain his commissions upon collection when he make payment into the State treasury. In Counties of more than one hundred and fifty thousand population according to the last Federal Census, or any subsequent Federal Census, no fees or commissions shall be allowed for collecting the three mill county school tax and the three mill district school tax, but in lieu thereof the tax collector of such counties shall retain the sum of two thousand dollars, per annum, one thousand dollars of which shall be paid by the Collector to the Tax Assessor, for his services rendered in assessing and collecting such taxes, which said amount shall not be paid by said collector into the general funds of the county, and said collector may retain such amount out of the three mill county school tax when he make payment to the treasurer of the county school board. The Collector may retain his commissions upon collections when he makes payment into the State Treasury.

Section 161-A. The fees, compensations and earnings of the Tax Collector allowed under the revenue laws of the State, shall not together with all other fees, compensation, allowances and earnings to them, exceed Five Thousand Four Hundred Dollars (\$5400.00) net annually. Provided, that after the term of office beginning with the first of October, 1935, expires, then the fees, compensation and earnings of the Tax Collector allowed under the revenue laws of the State, shall not together with all other fees, compensations, allowance, and earnings to them, exceed four thousand dollars (\$4000.00) net annually, after the payment of the salaries for clerks, typists, stenographers, and other office expenses in Counties where the Tax Collector is not paid a fixed salary; and the expenses of the office in such Counties for clerks, typists, stenographers, and other expenses shall not exceed in counties having a population according to the Federal Census as follows:

10 to 30 Thousand—\$100.00 per month.	30 to 40 Thousand—\$125.00 per month.
40 to 50 Thousand—\$150.00 per month.	50 to 65 Thousand—\$200.00 per month.
65 to 85 Thousand—\$250.00 per month.	85 to 110 Thousand—\$300.00 per month.
110 to 125 Thousand—\$800 per month.	125 to 500 Thousand—\$1,500.00 per month.

Section 161-B. In such Counties where the earnings from all sources exceed the expenses and the compensations to the Tax

Collector allowed in the above Section, the excess thereof shall not accrue to the Tax Collector but shall accrue to the General Fund of the County, and shall by the Tax Collector be paid over to the County treasurer and by him covered into the General Fund of the County.

Section 162. For making actual demand on delinquent taxpayers, the collector shall be entitled to receive a fee of fifty cents from each taxpayer on whom such demand is made, which shall be charged against such taxpayer and collected for the use of the collector in the same manner and by the same means as taxes are collected, but he shall charge only one fee against each taxpayer. For making a levy on and sale of personal property for the collection of taxes, the collector shall be allowed a fee of one dollar, to be collected out of the property and in addition thereto, he shall be authorized to collect out of such property the actual expenses of keeping and moving the same to the place of sale, the collector may sell any personal property levied on at any place in the precinct that he may determine, or may move the same to the courthouse of the county for sale. For the levy on and sale of a tract, parcel or lot of land assessed to one owner, or to "owner unknown", the collector shall receive a fee of fifty cents in addition to the demand fee on such delinquent taxpayer, the said fee to be made a part of the decree of sale and collected with the taxes due on the land sold or levied on for sale.

Section 163. The Tax Collector shall also be allowed the actual cost of transmitting his collections to the State Treasurer, the same to be paid out of the Treasury, or credited to the collector upon his making his annual settlement with the State Comptroller.

Section 164. After the first day of January the Collector must make a personal demand in writing upon delinquent taxpayers, or their agents charged with the duty of paying their taxes, whenever they may be found, for the amount of their taxes and fees, and when unable to find them, to make a demand by registered mail directed to his last known place of residence or business, return card demanded. It shall be the duty of such delinquents forthwith to pay the taxes and fees assessed and charged against them. But failure to comply with the requirements of this Section shall not invalidate the title to any property sold for taxes.

Section 165. If the taxes are paid after they become delinquent, the taxpayer shall pay all costs, fees and charges, if any, that may at the time of payment have lawfully accrued.

Section 166. All taxes becoming delinquent, bear interest at the rate of six per cent per annum; and such interest must be added to and collected as part of the taxes, and reported in such manner as the State Comptroller may prescribe.

Section 167. Upon the payment of taxes and fees and costs,

if any, assessed and charged against him by any taxpayer, the collector shall give a receipt therefor from the book mentioned in the next succeeding section showing the name of the taxpayer, the date of the payment, the total assessed value of real and personal property, separately, and stating the amount of the State, county and special taxes separately together with the interest, costs and fees, and such receipt shall be prima facie evidence that such taxpayer has paid all his State and county taxes for that year on the real and personal property, and other subjects of taxation contained in his assessment lists and all fees and costs mentioned in such receipt. Provided when any taxpayer shall pay all the taxes on any parcel of real estate separately assessed the description thereof shall be placed on the receipt.

Section 168. The Collector shall keep a book or books of receipts with duplicate sheets for each tax year, from which all receipts given to taxpayers must be taken, and on payment by any taxpayer the Collector shall enter on the duplicate from which the receipt is taken the name of such taxpayer, the date of payment, and the amount of taxes and the interest and costs as specified in the receipt prescribed in the next preceding section, and such duplicate and the receipt taken therefrom shall bear the same number and correspond in all respects. Such book or books at the end of the tax year shall be delivered by the collector to the chairman of the Board of County commissioners, or other board or court of like jurisdiction, and the production thereof by the collector may be compelled by such board or court at any time before such delivery.

Section 169. A purchaser, lien holder or mortgagee of real estate or personal property included in an assessment with other real estate or personal property of the person to whom the real estate or personal property was assessed or subject to the lien of taxes upon other real estate or personal property, shall not be required to pay the entire amount of taxes due by the person or corporation to whom such real estate or personal property purchased or on which a lien or mortgage is held is assessed, but may discharge the tax lien against such real estate or personal property purchased or on which a lien or mortgage is held by paying to the Tax Collector of the county in which such taxes are due and payable the actual amount of taxes due on such real estate or personal property purchased or on which a lien or mortgage is held based on the taxable value of such purchased or encumbered property as assessed for taxation by the person or corporation to whom assessed; Provided such person or corporation to whom such purchased or encumbered property is assessed, or for whose taxes such purchased or encumbered property is subject to a tax lien, has sufficient other real estate or personal property returned or assessed and subject to levy or sale out of which the remainder of

the taxes may be collected by the Tax Collector; and provided further that the taxable value of the real estate or personal property sought to be discharged from such tax lien can be ascertained from the assessment.

Section 169-A. Any person assessing more than one piece or parcel of real property which has been listed and valued separately on his assessment, may pay taxes on any one or more of said pieces, provided, however, that he shall first pay taxes on all personal property assessed by him in said assessment.

Section 170. After the first day of January of each year, the Tax Collector must proceed, without delay, to levy upon the personal property of delinquent taxpayers for the payment of their taxes, and after having first given ten days' notice of the time and place of sale, with a description of the property to be sold, by posting the same at three or more public places in the precinct of the residence of such delinquent, either at the time of assessment or of the levy, or if he is a non-resident of the county, in the precinct in which the levy is made, he must sell the same, or so much thereof as may be necessary to satisfy the taxes, fees and expenses of sale, including the expenses of keeping the property and moving the same to the place of sale in front of the court-house of the county, or at the voting place, or at the residence of such delinquent, or at any other place in the precinct in which such notice was posted, at public outcry to the highest bidder for cash, and the property so sold shall not be subject to redemption. For making such sale, the collector shall be allowed a fee of one dollar, to be collected out of the property. Such taxpayer may, at any time before the sale, pay the taxes, interest, fees and expenses, including the collector's fees for the sale, the same as if it had been made, and thereby discharge the levy.

Section 171. The proceeds arising from such sale shall be applied to the payment of the expenses of the sale, and of the taxes, interest and fees due from such taxpayer, and any balance remaining shall be paid to the owner of the property, if present at the sale; if not present, or if present and he refuses to receive the same, the collector shall deposit such balance with the county treasurer; or if there be no county treasurer, with such officer intrusted with the county funds, taking a receipt therefor, and the same shall be kept as a special fund; and whenever the owner shall apply to the collector for such balance, the collector shall deliver to him the receipts therefor, and upon presentation thereof by such owner, the officer with whom such deposit was made shall pay to him the amount expressed in the receipt. But if such excess is not called for in three years after such sale by the person entitled to receive the same, upon the order of the commissioners court or board of revenue, stating the case or cases in which such excess



was paid, together with a description of the property sold, when sold, and the amount of such excess, the county treasurer shall pass such excess money to the credit of the general fund of the county, and make record of the same on his books, and such money shall thereafter be treated as a part of the general fund of the county.

Section 172. No property shall be exempt from levy and sale for the payment of taxes and the fees and charges lawfully incurred in assessing and collecting taxes against the owner thereof.

Section 173. If the collector ascertains or has just cause to believe that any person is indebted to, or has in his possession or under his control, any money, property, or choses in action belonging to any delinquent taxpayer in his county, he shall forthwith serve upon such person a notice in writing to appear before some court in the county having jurisdiction of the amount involved, naming the court, to answer as garnishee, and under oath, whether he was indebted to such taxpayer at the time of the service of the notice, or at the time of making his answer, or whether he will be indebted to him by any contract then existing, and if so, the amount of such indebtedness; and whether he has in his possession, or under his control, any and what money, property, or choses in action belonging to such taxpayer; and in such notice he shall state the amount of the taxes and fees due from such taxpayer. He shall also forthwith give such taxpayer, if in the county, written notice of the service of such garnishment; and the garnishment and notice he shall, without delay, return executed to the court before which the garnishee is cited to appear. It shall be the duty of the collector, as far as by diligent inquiry he can, to ascertain what persons are indebted to or have in their possession any money, property or choses in action belonging to any delinquent taxpayer.

Section 174. Such proceedings shall be conducted in the name of the State; and if the notice served on the garnishee is returnable before a justice of the peace, the garnishee must answer within three days after service; if before the circuit court or court having like jurisdiction, he must answer within thirty days after service of writ of garnishment; and thereupon, or in the event of a failure to answer such proceedings, judgment may be had as in cases of garnishment on judgment.

Section 175. If the garnishment is returnable before a justice of the peace, the collector shall be entitled to one dollar, and the justice to two dollars, for their services in each case; if before the circuit court, or court having like jurisdiction, the clerk and the sheriff shall be entitled to the same fees as in cases of garnishment on judgments, and the collector to two dollars.

Section 176. The shares or interest in the stock of private corporations are subject to levy and sale for the payment of all taxes assessed against the owner thereof. To accomplish such levy and sale, the tax collector shall make out and certify to the judge of probate a bill against such owner for the amount of the taxes due from him and any fees due the assessor or collector, and upon the approval thereof, by the judge of probate, in writing endorsed thereon, such bills shall operate as a *fieri facias*, and thereupon such shares and interest may be, by the tax collector or his deputy, levied upon and sold for the payment of such taxes, interest and fees, and all costs, without having or obtaining the possession of said stock, by endorsement on the bill, approved by the judge of probate, stating the number of shares or other interests on which the levy is made, and giving notice thereof to the custodian of the books of transfer of such corporation, if he be known and reside within the State, or if he be unknown, or if he resides without the State, by posting at the courthouse door of the county, and by publication for three successive weeks in a newspaper published at or near the principal place of business of such corporation; all transfers of stock made in good faith, for a valuable consideration before notice of the levy is given, are valid and operative, and must prevail over the levy. The levy and sale thereunder may be made in the county of the residence of the taxpayer, or in the county in which the corporation has its principal place of business; and on making the sale, the tax collector must make to the purchaser a transfer in writing; and the purchaser has the right to require the proper officer to register such transfer on the books of the corporation, and with or without such registry, is entitled to all the rights and interests of the taxpayer as whose property such stock was sold.

Section 177. When no personal property can be found out of which the taxes of any delinquent taxpayer can be collected, or an amount insufficient to fully satisfy such taxes, the real estate of such taxpayer, or the real estate upon which such taxes are a lien, shall be sold for the payment thereof, or of the balance due thereon, in the manner hereinafter prescribed. But the failure of the tax collector to so exhaust such personal property shall not invalidate the sale of any real estate.

Section 178. The tax collector shall in each year report on oath to the State Tax Commission at Montgomery, and to the court of county commissioners, or other court of like jurisdiction, at the June term thereof, a list on a form prescribed by the State Tax Commission, of the persons from whom the taxes assessed against them cannot be collected, with the amount of taxes, State and county assessed against each, which shall be termed "list of insolvents", and a list of such persons as have been overassessed

or wrongfully assessed, with the taxes, State and county assessed against each; which shall be termed "list of errors in assessments", and any taxes which may be in litigation, in order that the same may be passed upon and determined by the court. The Tax Collector shall cause the said "list of insolvents" to be published twice during the month of July following the submission thereof to the June term of the Court of County Commissioners or other Court of like jurisdiction. Said publication shall be made in a daily newspaper printed and published in said County; if no such paper is published therein, then in a weekly newspaper published in said County; if there be neither a daily or weekly newspaper of any sort published in said County, then he shall post said "list of insolvents" in the Court House and in three other conspicuous places in said County and keep said posting available for the public during the entire month of July. A failure to publish said list as here required shall constitute a misdemeanor.

Section 179. At the same term, such court shall make a careful and rigid examination of such lists, and of the facts pertaining thereto, in consultation with the tax assessors, and shall ascertain and determine what taxes contained in the lists of insolvents the collector could not, by the use of due diligence, have collected, and what taxes contained in the list of errors in assessments should not have been collected by him by reason of such errors, and shall correct such list accordingly, and shall credit the collector with the county taxes contained in such list as corrected, and shall ascertain what taxes are in litigation, and credit the collector with the county taxes so in litigation. The credits allowed the tax collector under this section shall be approved by the State Tax Commission.

Section 180. Within ten days after the adjournment of the court at which such allowances were made, the presiding officer of the court must certify to the State Tax Commission and the State Comptroller separately, the itemized list as ascertained and allowed by the court, of insolvent taxes, errors in assessments and taxes in litigation, showing in each instance, the name of the taxpayer, and the amount of State taxes and special taxes charged against him; and in the case of taxes in litigation, showing also when and in what court suit was brought; and if such lists are found to be correct, and have been approved by the State Tax Commission, the State Comptroller must, upon the final settlement of the collector, allow him credit for the amount of State taxes and special State taxes shown by such lists.

Section 181. Upon the allowance and credit to the tax collector of insolvent taxes and taxes in litigation, as provided in the two preceding sections, the court shall, on behalf of the county, state a new account against the collector for the amounts of insolvent county taxes and county taxes in litigation so allowed and

credited; and upon allowance by the State Comptroller of the credits for insolvent State Taxes and State taxes in litigation, as provided in the preceding section, a new account must be stated by the State Comptroller against the collector for the amounts of insolvent State taxes and the amounts of State taxes in litigation so allowed and credited; and the collector shall remain charged with such sums until the liability is discharged, as hereinafter provided.

Section 182. Within twenty days after such allowances are made, the presiding officer of such court shall, from the list of insolvent taxes so allowed, make out and deliver to the collector a separate list for each precinct in the county, showing the name of each insolvent taxpayer, and the amounts of State and county taxes, and costs, if any, due from him; and such collector shall receipt for such lists.

Section 183. It is the duty of the collector to proceed with all diligence to collect such insolvent taxes and to make monthly reports, payments and settlements thereof, with the State Comptroller and county treasurer, as he is authorized and required to do so in the collection of taxes which have not been declared insolvent; and he is entitled to the same commissions upon such insolvent taxes collected by him as are allowed by law upon the same character of taxes which have not been declared insolvent.

Section 184. At the June term of the court held during the year next succeeding, the collector must make final report of the uncollected balances of such insolvent taxes, showing the name of every insolvent taxpayer from whom he has been unable to collect, and the amounts of State and county taxes due from him, and an itemized report of the taxes still in litigation; and thereupon, if the court is satisfied that the collector has made diligent effort to collect such taxes, the court shall make an order allowing the collector credit for such insolvent taxes as he has been unable to collect and for taxes remaining in litigation, and shall credit him with all county taxes included therein; and the presiding officer shall certify the same to the State Comptroller, who shall thereupon credit the collector with the State taxes included in the lists so allowed. The account for taxes remaining in litigation shall thereafter be kept in such manner as the State Comptroller may prescribe.

Section 185. If the collector, while charged with the collection of insolvent taxes and taxes in litigation, shall retire from office before the expiration of the time allowed to make such collection, he shall make, to the next term of the court thereafter, the report required by the preceding section; whereupon allowance must be made and certified and credits entered as provided in said section; but his successor in office must be charged with the several ac-

counts so credited to the retiring collector, and is charged with the duty of collecting, reporting and paying the same, and making final report of uncollected balance in all respects as if no change in office has been made.

Section 186. It shall be the duty of the tax collector, whenever upon information or otherwise he has good reason to believe that any person owing taxes, whether due or not, is about to leave or remove his property from the county, or that such person is closing out or going out of business or disposing of substantially all of his personal property and thereby the collection of such taxes is endangered, to make out and certify to the judge of probate a bill against such person for the amount of such taxes and any fees due the assessor or collector; and upon the approval thereof by the judge of probate in writing endorsed thereon, such bill shall operate as a writ of fieri facias which the collector is authorized to execute by levy and sale, in the same manner as sheriffs are authorized to execute such writs when issued out of the Circuit Court. Said writ may be executed in any county of the State where property of the taxpayer is found. The Collector of such county must execute the writ forwarded to him by the collector of the county where the assessment was made, the same as if issued in his own county. He shall remit collections thereon to the collector sending him the writ, and is liable on his bond for any neglect of duty under this Section. Advertisements in newspapers or otherwise of sales of any personal property as a closing out sale, fire sale, bankrupt sale, or any sale of like character shall be prima facie evidence that the collection of taxes due on property so advertised is endangered within the meaning of this Section.

Section 187. On failure of the tax collector to act when notified that any person is about to leave or remove his property from the county, or that such person is closing out or going out of business, or is disposing of substantially all of his personal property by a closing out sale, bankrupt sale, fire sale, manufacturers sale, or otherwise, and the collection of taxes due or to become due is endangered, he shall be liable for the amount of taxes assessed against such person.

Section 188. When the collector has information that any person owing taxes in his county, whether due or not, has left the county, he shall make out and certify to the judge of probate a bill against such persons and procure the approval thereof by the judge of probate in all respects as provided in the second preceding section, and such bill shall operate as a writ of fieri facias, and the same may be executed by the collector if the personal property of the taxpayer be found in his county, or may be by such collector forwarded to the collector of any county in which the taxpayer has any property, and the collector of such other county, on the receipt

of such writ, shall file the same for record in the probate office in his county, and without delay shall give notice to the delinquent taxpayer in person or by registered mail, return receipt demanded. On failure of said delinquent taxpayer to satisfy after thirty days from date of such notice, the taxes, fees, and costs due under the writ, in addition to the recording fee and a fee of two dollars for executing such writ, he shall proceed to execute the same as if issued in his county. He shall remit collections thereon to the collector sending him the writ, and is liable under his bond for any neglect of duty under this Section.

Section 189. It is the duty of the collector, when engaged in the collection of taxes for any year, if he discovers that any person or property within his county has not been assessed with the tax or taxes lawfully chargeable to such person or property for that year, or any preceding year, not more than five years before that time, forthwith to assess and collect the taxes due on the same, and in writing notify the assessor of the fact so discovered, in order that proper assessment of unassessed taxes may be made, and the collector has the same authority to administer oaths and propound questions as the assessor has, and any party failing or refusing to answer such questions, or to give in his property, shall be liable to the same penalties as provided in cases where parties fail to refuse to return their property to the assessor or answer the questions required to be propounded by the assessor. In such assessments of escaped taxes, the taxpayer on giving notice to the tax collector, shall have the right of appeal as provided for escaped assessments made by the tax assessor, and all provisions and conditions applying thereto shall apply as to escaped assessments made by the tax assessor.

Section 190. The tax collector shall collect all countywide and school district taxes and shall report and disburse such taxes in the manner provided by law.

Section 191. Whenever the collector assesses and collects any escaped taxes, he shall forthwith report the same to the tax assessor who shall enter such assessment in the back part of the book of assessments, and shall certify the amount collected and the items of property so assessed in the form of an abstract to the State Comptroller, and the State Tax Commission and the collector is chargeable with the same to the amount of taxes due the State and county, respectively.

Section 192. The tax collector on the fifteenth day of October of each year, and on the first and fifteenth day of each month thereafter until he makes his final settlement for such year, shall make under oath, to the county treasurer and school treasurer, or if there be no county treasurer and/or school treasurer in the coun-

ty, to the custodian of the funds of the county and schools an itemized report in writing, a copy of which shall be by the collector forwarded to the State Comptroller, and a copy filed with the probate judge, setting forth separately the taxes, interest and/or penalties collected by him for the State, county and schools since the making of his last report and within five days after making such report, he must pay to the State Treasurer all State taxes, interest and/or penalties then due from him to the State, and he must also pay to the county treasurer and to the school treasurer, or if there be no county treasurer or school treasurer in the county, to the custodian of the funds of the county and of the schools, all county taxes, interest and/or penalties and all school taxes interest and/or penalties then due from him to the county and to the schools, by him before that time collected. The county treasurer and the school treasurer, or if there be no county treasurer and/or school treasurer in the county, then the custodian of the funds of the county and of the schools, shall give to the collector a receipt in duplicate of such semi-monthly payment, one of which duplicates shall be promptly forwarded to the State Comptroller by the tax collector. If no collection of taxes, interest and/or penalties have been collected by the collector prior to any reporting date, he shall make the report herein required stating under oath that no taxes, interest and/or penalties were collected during the period for which report is made. Should report and/or payment of taxes, interest and/or penalties herein required not be made within ten days after same is due the Comptroller shall immediately have the books of the collector examined, and at the same time notify the Tax Collector's bondsmen, who may within thirty days from date of notice from the Comptroller withdraw from further responsibility as such bondsmen by giving fifteen days notice by registered mail to the tax collector, the probate judge of the county and the State Comptroller, but such bondsmen shall not be relieved of any responsibility with respect to the tax collector arising during the time they are on his bond. When the bondsmen on a tax collector's bond serves notice of their desire to withdraw from the responsibility as such bondsmen as herein provided it shall be the duty of the tax collector to make on or before the withdrawal date of his then bondsmen, a new bond in an amount and with such surety as may be required by law. Upon failure of the tax collector to make such new bond the State Comptroller shall notify the Governor that a vacancy exists in the office of tax collector of the county and the Governor shall appoint a tax collector to serve the remainder of the term for which the former tax collector was elected or appointed to serve. The tax collector appointed to serve the remainder of the term shall before entering upon the duties of the office, make bond in the

amount and with such surety as is required by Section 154, of this Article.

Section 193. The treasurer of the county and the school treasurer or if there be no county treasurer or school treasurer then the custodian of such funds shall each immediately, report to the State Comptroller, should the tax collector fail to make the report and tax payments within the time and in the manner required of him. The reports made to the State Comptroller, the treasurer of county funds and the treasurer of school funds or the custodian of such funds shall be open to inspection at all reasonable hours.

Section 194. The tax collector must also, on or before the twentieth day of January and twentieth day of April in each year, render an account to the State Comptroller and to the Board of County Commissioners or other like governing body of the county, under oath, of the amount of taxes collected by him for the current year on or before the first day of January and April, respectively, and upon each accounting must be allowed by the State Comptroller and the Board of County Commissioners or like governing body of the county, the amount then due him for commission, fees, expenses, and outlays in the discharge of his duties as provided by law.

Section 195. The collector must also, on or before the tenth day of December, 1935, and on or before the first of July in each year thereafter, make a final settlement, under oath, with the county treasurer and school treasurer, or if there be no county treasurer or school treasurer in the county, to the custodian of the funds of the county, for all the county taxes which have been assessed and levied for the use of the county, and all taxes levied for the use of the schools and then pay over to the county treasurer and school treasurer or if there be no county treasurer in the county, to the custodian of the funds of the county, the balance of the county tax due from him as such tax collector, and not paid over prior to that date, and shall make final settlement with the treasurer of school funds of all school taxes which have been assessed and levied and shall pay over to the treasurer of school funds the balance of school taxes due from him as such tax collector and not paid over prior to that date.

Section 196. On the death of any tax collector, his personal representative, general or special, must, out of the first moneys that come into his hands belonging to the estate of his decedent, and as soon as the same come into his hands, pay to the proper State, county and school officers, the amount of public funds collected by such decedent not paid over by him at the time of his death, and must make settlement with such officers, of any unsettled accounts of such decedent with the State, county and school officers touching the affairs of his office, as soon as practicable,

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and not later than the time when the tax collectors are required to make settlements.

Section 197. Whenever any tax collector collects any special taxes, he shall specify in the receipts given to the taxpayers the amount of such taxes, and the purposes for which they were levied and collected.

Section 198. Such special taxes when collected, must be paid over by him to the county treasurer, or if there be no county treasurer to the custodian of the funds of the county, and the county treasurer, or if there be no county treasurer, the custodian of the funds of the county, receiving such special taxes shall keep the same separate and distinct from all other public funds, and shall keep a separate account thereof, and shall promptly disburse the same upon orders drawn thereon by the legally authorized authority.

Section 199. When the object for which such special taxes were levied and collected shall have been accomplished, or for any other reason the same are no longer required for the purpose for which they were levied, the parties charged with the administration or application thereof shall notify the treasurer, or if there be no county treasurer, the custodian of the funds of the county, who shall thereupon close the account of such taxes, and transfer any balance remaining to the account of the general fund of the county.

Section 200. In cases where there is no provision by law authorizing the collection of taxes by suit, the taxes due to the State, or to any county, city, town, special school district, or other special district, may, after the same shall become delinquent, be collected by the state, or by any county, city, or town, or county or city board of education, by suit in any court of competent jurisdiction.

Section 201. Any municipal corporation in this State, may, by ordinance duly adopted, provide for the assessment, equalization and collection of taxes due such municipality, by the officers and boards provided in this Chapter, and all the machinery herein provided for the assessment, equalization and collection of State and county taxes, the enforcement of such collection, the sale of property for the collection of taxes and the redemption from such sales, shall be applicable to the assessment and collection of such municipal taxes, the sale of property for the collection of such municipal taxes and the redemption from such sales, and the assessor and collector shall receive such compensation as may be fixed by the governing body of such municipality, not to exceed one half of one percent for assessing and one-half of one percent for collecting.

Section 202. On or before the tenth day of December, 1935, and on or before the first day of July in each year thereafter, the

tax collector must make final settlement, under oath, with the State Comptroller, of all matters pertaining to the office of tax collector and pay over to the State Treasurer the balance which may be found due from him for taxes with which he is chargeable under the laws of the State; and at that time he must also account to the State Comptroller and pay over to the proper governmental agencies all money received by him for the sale of lands and other property which may have been sold for payment of taxes and also account to the State Comptroller for all lands bought by the State. He must also report under oath to the State Comptroller, and pay over to the State Treasurer all escaped taxes assessed and collected by him. For failure of any tax collector to make any of the settlements herein required to be made by the first day of December, 1935, and by the tenth day of July of each year thereafter, he shall forfeit ten dollars per day, which shall be deducted from the amount of commissions due and payable to him on such settlements respectively; and it shall be the duty of the State Comptroller, or the county treasurer, or the custodian of the county funds, as the case may be, to withhold all commissions in cases where settlements are not made by the said tenth day of December, 1935, and by the tenth day of July each year thereafter.

## ARTICLE VII.

### POLL TAX

Section 203. There may be collected as hereinafter provided, from every person in this State over the age of twenty-one years and under the age of forty-five years, not exempt by law, the sum of one dollar and fifty cents as poll tax, which shall be applied exclusively in aid of the public school fund in the counties in which it is levied and collected.

Section 204. The State Comptroller with the approval of the Governor, shall prepare and have printed suitable forms of poll tax receipts, with appropriate blanks for name, color, sex, address, precinct or ward, and year for which paid and date of payment. Before the first day of October of each year he shall furnish to the several tax collectors a supply of blank receipts, countersigned by him, sufficient for the probable wants of the several counties, taking the tax collector's receipt for same. Each blank receipt for such poll tax shall have a duplicate attached thereto, on which shall be printed such matter as the Comptroller may prescribe, the number of such receipt and appropriate blank spaces to be filled in by the Tax Collector, showing by whom paid, and when and for what year, and the Comptroller shall take and file in his office a

proper receipt from the tax collector for the poll tax receipts so furnished him.

Section 205. Every woman voter when paying poll tax shall give the tax collector the name under which she was made a qualified elector. In the event of a change in the name of a qualified elector by reason of marriage or otherwise, then both the name as shown on the original application for registration and the name as changed shall be given to the tax collector, and the tax collector shall report both the original and the changed name on the poll tax payment list furnished the judge of probate, as provided by law. The prefix Mrs. or Miss must precede the name of each woman.

Section 206. Upon the payment to him by any such person of such poll tax as such person shall offer to pay, the tax collector shall, before detaching said receipt from the stub, fill up the blank spaces in the stub to correspond in all respects with the receipts as given by him to such tax payer, and sign his name to such receipt.

Section 207. Collectors account to State Comptroller.—The Tax Collector shall by the fifteenth day of February return to the Comptroller all unused receipts and stubs so delivered to him, or account to the State Comptroller for all unsued receipts and stubs, and shall also return to the Comptroller the stubs of all receipts issued by him; after the State Comptroller shall have charged the Collector with all poll taxes collected by him and checked the same, as shown by said stub, he shall return said stub books to the Judge of Probate of such County in which said poll taxes were collected, for record and filing in his office.

Section 208. After the first day of February and before the first day of next October, the tax collector shall have no authority to receive or receipt for poll taxes due by any person.

Section 209. The Tax Collector shall keep a separate account of the amount of the poll tax paid by persons, of each race in each township or separate school district.

Section 210. Poll tax reported and paid into State Treasury; duplicate reports to county and State Superintendents.—The Collector must report and pay into the State Treasury on the first and fifteenth of each month, as other taxes are reported and paid in, all poll taxes collected by him, and he shall make a report thereof in duplicate, showing the amount collected from each race in each township or separate school district, one of which reports he shall furnish to the county Superintendent of Education of this county, and the other he shall forward to the State Superintendent of Education.

Section 211. The collector must, within ten days after making his final settlement with the State Comptroller make to the County

Superintendent of Education and the State Superintendent of Education each, a consolidated report of the amount of poll tax collected by him during the year and paid into the State Treasury, showing by township or separate school district the amounts collected from each race separately.

Section 212. Each year the tax collector of each county shall prepare, on or before the fifteenth day of March, and shall file in the office of the judge of probate of their respective counties an alphabetical list by beats and voting districts, containing names of all persons in said county, their sex and color, and who have, on or before the first day of February of the current year, paid a poll tax, and giving the number of poll tax receipt issued to each person. Said names, with the information as to the color and sex of each person, and number of poll tax receipts shall be entered in a suitable book for that purpose, provided at the expense of the county.

Section 213. For the service required in the preceding section, when performed, the several tax collectors shall be entitled to the sum of two and one-half cents for each name so entered, to be paid out of the general fund of their respective counties, on the warrant of the probate judge, provided, however, no tax collector shall receive any compensation for the service required in the preceding section unless he shall have complied with the provisions therein.

## ARTICLE VIII.

### CHAPTER 1.

#### SALE OF LAND FOR TAXES.

Section 214. The probate court of each county is empowered to order the sale of lands therein for the payment of taxes assessed on such lands, or against the owners thereof, when the tax collector shall report to the court that he was unable to collect the taxes assessed against such land, or any mineral, timber, or water right or special right, or easement therein, or the owner thereof, without a sale of such land.

Section 215. It shall be the duty of the tax collector, at the expense of the county, to procure a substantially bound book in which he shall enter, in the manner usual in docketing causes for trial in the circuit court, each parcel of real estate, or right or interest, or easement therein, assessed to any person against whom taxes have been assessed which are not paid, when a portion of all such taxes are on such real estate, or right or interest or easement therein, describing the same in the same manner as it is de-

scribed in the assessment list, and stating the amount of the unpaid taxes, penalties, fees and charges due by such person, specifying the amount due the State, and due the county, and to special tax districts, and that for fees and charges; and he shall in like manner, enter in such book each parcel of real estate, or right or interest or easement therein, which has been assessed to an "owner unknown" the amount of taxes, fees and charges due thereon, stating in each case the fact that it was so assessed. The description of such real estate, or right or interest or easement therein, shall be entered in alphabetical order, if known, and they reside in the county, but if they are unknown and do not reside in the county, then by the precincts in which the real estate is situated.

Section 216. Such book shall be prepared in a neat and orderly manner either in a fair and legible handwriting or typewritten with sufficient space in each case to make the necessary entries, and in other particulars, in a manner suitable for the purpose for which it is to be used; and if it is not thus prepared, the judge of probate shall cause it to so prepared at the expense of the collector, and the cost thereof shall be deducted from his compensation. Such books shall be delivered to the judge of probate on or before the first day of March, but if from any cause there has been a failure to deliver the same by that time, it may be delivered thereafter.

Section 217. (a) On receiving such book as speedily as practicable the Judge of Probate shall issue a notice addressed to each person against whom any unpaid taxes are assessed as shown by such book, substantially in the following form: "State of Alabama, (give name of county) county, to (give name of taxpayer): The Tax Collector has filed in my office a list of delinquent taxpayers, and of real estate upon which taxes are due. You are reported as delinquent, and your tax amounts to (here give amount of taxes) with costs added. This is to notify you to appear before the probate court of said county at the next term thereof, commencing on Monday, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, then and there to show cause, if any you have, why a decree for the sale of property assessed for taxation as belonging to you, should not be made for the payment of the taxes thereon, and fees and costs. (Here Probate Judge's signature). Judge of Probate." Such notice must be served by the Tax Collector, or his deputy, on the person to whom it is addressed, and service of such notice may be made by handing a copy thereof to the party to whom it is addressed, or his agent, or by leaving a copy thereof at the residence or place of business of such party, or his agent, or by sending a copy of said notice to the party to whom it is addressed, by registered mail, postage prepaid, marked 'for delivery only to the person to whom addressed', and return receipt demanded addressed to the Tax Collector of the county; and with his endorsement

thereon, showing how and when served, show his reason for not serving the same, it must be by the Collector, or his deputy, returned into Court on or before the first day of the next term thereof. (b) If the party against whom such assessment was made has since died, and letters testamentary or of administration have been granted upon his estate, such notice must, in like manner be served on his personal representatives, if a resident of the county. If the property or other subjects embraced in any assessment were returned or listed by a guardian, or other person, for a minor or person of unsound mind or by a trustee for his cestui que trust, except husband or wife, or by personal representative for the estate of any deceased person, or by a public officer, receiver, or appointee of any court, such notice must in like manner be served on the party making the return, or his successor, and also by publication or posting, as provided in the next succeeding subsection. (c) If the person against whom such assessment is made is a non-resident of the county, and has no agent therein known to the tax collector, or if he has died since making the return and there is no executor or administrator of his estate residing in the county, such notice may be given by publishing the same in a newspaper published in the county, or if no newspaper is published therein, by posting the same at the courthouse of the county for three weeks. (d) The book to be prepared and delivered to the Judge of Probate by the Tax Collector must show in each case by whom such returns were made and the address of such person as shown on the assessment list.

Section 218. When any assessment is made to an "owner unknown", notice must be given by publication once a week for three (3) successive weeks, in a newspaper published in the county, or if no newspaper is published therein, by posting the same at the courthouse of the county for three (3) weeks, substantially in the following form: "The State of Alabama. (Here give name of county) County." To whom it may concern: Take notice that the tax collector has filed in my office a list of delinquent taxpayers, and of real estate upon which taxes are due, and therein is reported as assessed to 'owner unknown' the following real estate, to-wit: (here insert descriptions). This is to notify you to appear before the probate court of this country, at the next term thereof, commencing on Monday, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, then and there to show cause, if any you have, why a decree for sale of said real estate should not be made for the payment of the taxes assessed upon the same, fees and costs. (Here Probate Judge signature) Judge of Probate." In answer to such notice, any person having an interest in or claim to such real estate, may appear and defend against the proceedings seeking to condemn the same to sale for the payment of taxes assessed thereon. When practicable,

all real estate so assessed for any one year must be incorporated in one notice, a separate paragraph only, in addition to the caption and conclusion being given to the description of the real estate embraced in each assessment.

Section 219. The publication of notices under the preceding sections is governed by the provisions of this act relating to the publication of notices of sale of land, so far as the same may be applicable, and the tax collector may select the newspaper in which any notice under this article shall be given, but all legal notices relating to the sale of land for taxes shall be inserted in the same newspaper for the tax year.

Section 220. Such cause shall be triable at the term named in said notice, and unless the cause is contested at the trial term the Judge of Probate shall forthwith issue his decree for the sale of lands, but if the cause is contested, the court with the written consent of the taxpayer and the Tax Collector, filed in the case and noted on the docket, may for good and sufficient reason continue any cause, but such continuance shall not be beyond the next succeeding term. The fact of such agreement shall be noted on the docket, and such continuance shall not necessitate a re-publication of the notice.

Section 221. It shall be the duty of the Tax Collector to attend the several terms of the Probate Court at which any of such causes are triable, and to have with him his tax book; and such tax book shall, in all cases, be accepted as prima facie evidence of the amount of taxes and fees due, and that the same have been properly assessed and charged, and are unpaid.

Section 222. If on account of the illness or other good and sufficient cause the Tax Collector is unable to attend any term of court at which any of such causes are triable, his deputy may attend in his stead and produce the tax book as required of the tax collector.

Section 223. If service of such notice is perfected ten days before the commencement of the term to which the same is returnable, the cause shall stand for trial at such term; and if no defense is interposed or if interposed and on trial thereof the same is adjudged insufficient in law or is not sustained by the evidence adduced, the Probate Court shall make and enter on such book or docket, a decree of sale substantially in the following form: "It appearing to the Court that the taxes have been assessed against the person mentioned in this cause (or if the assessment is to owner unknown that the taxes have been assessed on real estate mentioned in this cause) to the amount of (state amount here) dollars for the year\_\_\_\_\_, and that the same are still due and unpaid; and it further appearing that notice of this proceeding has been given as required by law, and no valid defense has been in-

terposed against the sale of such real estate for the payment of the taxes. It is therefore ordered, decreed and decreed and adjudged by the Court that the State of Alabama has a lien for the payment of said amount and for the additional sum of (state amount here) dollars, for fees, charges and costs in this behalf lawfully incurred, on the following described real estate, to-wit: (Here insert description of real estate). It is further ordered, adjudged and decreed by the Court that said real estate or so much thereof as may be necessary be sold for the payment of said delinquent taxes, and of said fees, charges and costs, and of the expenses of such sale." Such decree when entered shall be signed by the Judge of Probate and shall have, when the jurisdiction of the court is shown, the effect of judgments in other cases in courts of record.

Section 224. Immediately at the end of any term of court at which any decree for sales of real estate for the payment of taxes are rendered, or as soon thereafter as practicable, the tax collector shall proceed to enforce such decree by sales of real estate ordered to be sold, and to this end shall give notice for thirty days before the day of sale, by publication for three successive weeks in some newspaper published in the county, or at least three (3) weeks before the day of sale shall post a notice at the courthouse of his county, and at some public place in the precinct in which the real estate is situated, that at the time specified therein, he will proceed to sell such real estate separately, describing such portions as are embraced in each decree, and stating the amount for which each decree was rendered (without stating the items of which said decree is composed) and the person against whom the taxes embraced in such decree were assessed, or if assessed to "Owner unknown", stating that fact. The rate to be charged for publishing such notice in a newspaper shall not exceed one and one-half cents per word for the first insertion, and one cent per word for each subsequent insertion; but no allowance shall be made for the publication of any matter other than is required by law; and if no newspaper is published in the county, or if the publication of the notice cannot be had in the county at the above rate, the posting of such notice at the courthouse, and at a public place in the precinct in which the real estate is situated, as required by this section, shall be sufficient notice of such sale.

Section 225. Within ten days after such sale the Tax Collector shall make report of each sale to the Probate Court and praying confirmation thereof. Such report shall lie over for a period of five days for exceptions or objections thereto. If upon the expiration of five days no objections have been filed, or if in the opinion of the Court they are insufficient, and it appearing to the Court that the Tax Collector sold such real estate in accordance with the law, and the decree of Court ordering such sale, the Court shall



make and enter an order confirming said sale, which shall be entered on the same book or docket as the original decree of sale, and ordering the Tax Collector to issue proper certificates of purchase to the various purchasers, including the State.

Section 226. In all advertisements any notices of the proceedings in the Probate Court for the sale of the lands for taxes and of such sales, and all entries required to be made by the Judge of Probate, Tax Collector, or other officer, initial letters, abbreviations, and figures may be used to indicate townships, ranges, sections, parts of sections, blocks and lots, and dates and amounts; and in estimating the cost of publication, each amount, date or number and each initial letter or abbreviation shall be counted as a word. In all advertisements for the sale of real estate, the notice shall state the precinct in which the property is situated, provided, that nothing herein contained shall in any wise affect the collection of any taxes now due the State or any county therein, or operate to abate or discontinue any suit or action of any character instituted or begun for the collection thereof.

Section 227. Such sales shall be made in front of the door of the court house of the county at public outcry, to the highest bidder for cash, between the hours of ten in the morning and four in the afternoon, and shall continue from day to day until all the real estate embraced in the decree has been sold. The judge of probate must attend such sales, and make a record thereof in a book to be kept by him in his office, for that purpose, in which he shall describe each parcel of real estate sold, and state to whom sold, the price paid by the purchaser, the date of sale, and if no sale was effected, stating that fact, and the reason thereof, and also in separate columns, the amounts, as taken from the book or docket in which the decrees are entered, of each kind of tax penalties, and of the fees and costs in each case, and he must also enter in such docket, in each case, the land sold under the decree in that case, the purchaser thereof, and the amount at which it was sold.

Section 228. It shall be the duty of the tax collector, in making such sales, if practicable, to so offer such real estate for sale that only such portion thereof may be sold as is necessary to satisfy the decree under which it is sold and the expenses of the sale; but no sale shall be made for a sum less than the amount of such decree and expenses.

Section 229. The person to whom any real estate at such sale is knocked off shall forthwith pay to the collector the amount of his bid, and on his failure to do so, the collector must proceed at once to again offer it for sale.

Section 230. If no person shall bid for any real estate offered at such sale an amount sufficient to pay the sum specified in the decree of sale, and the costs and expenses subsequently accruing, the Judge of Probate shall bid in such real estate for the State at a

price not exceeding the sum specified in such decree and such subsequently accruing cost and expenses. In no event shall the Judge of Probate bid in for the State less than the entire amount of real estate included in any assessment.

Section 231. As soon after the confirmation of sale is made as may be practicable, the Tax Collector must make out and deliver to each purchaser, other than the State, a certificate of purchase, which shall contain a description of the real estate sold and show that the sum was assessed by the Assessor, to whom assessed, the date of assessment for what year or years the taxes were due, the amount of taxes thereon, distinguishing the amount due the State and County, and for school purposes, and the fees and costs; that it was advertised and how long, and that it was offered for sale, and at what time, and who became the purchaser, and at what price, and the fact and date of the confirmation of such sale.

Section 232. For the real estate bid off for the State in each case the Judge of Probate shall make out a certificate of purchase to the State of like import to the one provided for in the preceding section, and deliver the same to the Tax Collector who shall, on final settlement, deliver all certificates received by him from the Judge of Probate to the State Comptroller, who shall examine carefully all certificates of purchase of real estate where the same were bid in for the State at tax sale. When the same are received by him, and if, in his opinion, such sale was erroneous for want of regularity, proper or sufficient description, error in advertising or for any other cause that may appear from such certificates, he shall so declare it and return the certificate to the Judge of Probate, and charge the account of the officer making the error with all taxes, interest, fees, and costs involved in said sale. The Comptroller shall notify the Judge of Probate who issued the certificate of such cancellation, and shall also notify the Tax Assessor of the County in which the property is situated, and direct him to assess the property as an escape for the years in which it was subject under existing laws. The Comptroller when he has settled the accounts of the Tax Collector shall deliver to the State Land Commissioner all certificates of land bid in for the State which have been accepted by him, and said Land Commissioner shall cause the same to be recorded in a book kept in his office for that purpose and properly indexed for convenient reference. Lands bid for the State shall not thereafter be assessed except as herein provided until the same have been redeemed or sold by the State.

Section 233. The cost of advertising the caption and conclusion of notices for the sale of real estate for the payment of taxes, and so much thereof as pertain to those portions of such real estate as are bid off for the State, must be paid by the State and the State Comptroller shall after every such sale, and after the collector has filed with the State Comptroller the certificates of sale and pur-

chases by the State as provided in the preceding section, audit the account of the owner or proprietor of the newspaper in which such notices were published, and shall draw his warrant on the State Treasurer in favor of such owner or proprietor for the amount he may find to be lawfully due him, and payable by the State and the Treasurer shall pay the same; but the State shall pay no other costs attending any tax sale.

Section 234. The cost of advertising the part of such notices pertaining to lands purchased by others than the State, shall be covered by the bids of the purchaser, and collected by the collector as part of the purchase money, but for the use of the owner or proprietor of the newspaper in which such notices were published, and shall be by the collector paid over to him on demand; and for such portions of such costs, as well as for the cost of advertising lands inserted in the notice by the mistake of the collector, such collector and the sureties on his official bond shall be liable to the owner or proprietor of such newspaper.

Section 235. The certificate of purchase delivered by the Tax Collector to the purchaser at such sale or to the State in case the State is the purchaser, is assignable in writing or by endorsement, and if the State is the purchaser such assignment shall be made by the State Land Commissioner upon the payment of the amount bid by the State, with interest thereon at the rate of six per cent per annum from the date of sale to the date of assignment, plus all taxes due on said lands since the date of sale, with interest thereon at six per cent from date of maturity. Such assignment shall vest in the assignee and his legal representatives all the right and title of the original purchaser, or of the State in case the State is a purchaser.

Section 236. If the assessor, collector, judge of probate or any county tax assessor shall directly or indirectly, be concerned or interested in the purchase of any real estate sold for taxes, the sale shall be void, and he and his sureties on his official bond shall be liable to a penalty of not exceeding five hundred dollars (\$500.00) to be fixed by the jury, which may be recovered in an action in the circuit court, or court of like jurisdiction brought on the relation of any taxpayer of the county, in the name of the State, one-half of the amount recovered to be paid to the realtor, and the other half to the State.

Section 237. From any decree rendered by the probate court for the sale of real estate for the payment of taxes, the defendant in the cause or the State, in behalf of itself and the county, may appeal to the next term of the circuit court, in equity, of the county, within thirty days after the rendition of the decree. If the defendant appeals, he must execute a bond in double the amount of the decree, payable to the State of Alabama, with sufficient surety to be approved by the judge of probate, and conditioned that he

will prosecute the appeal to effect, and pay such judgment as the appellate court may render thereon; but the State shall not be required to execute any bond. The solicitor of the circuit or county court shall represent the State on such appeal, and of the pendency thereof the judge of probate must give him notice in writing; and an appeal by the State, notice thereof shall be given the defendant, as in other cases of appeal from the court to the circuit court in equity, such appeal must be tried *de novo*, upon an issue made up under the direction of the court. If the defendant appeals, and the issue is decided adversely to him, the court must render judgment against him and his sureties in favor of the State for the amount of the taxes, fees and costs, besides the costs of the appeal, and such judgment shall be a lien upon the lands described in the decree from which the appeal was taken, which lien with a description of the lands, must be declared in the judgment.

Section 238. Any money collected on such judgment, except for costs of court, must be paid to the tax collector, who shall account for and pay the same over to the officers and persons entitled to receive the same.

Section 239. For each notice to a delinquent property owner to show cause why a decree of sale should not be rendered, the Judge of Probate is entitled to a fee of twenty-five cents and for each decree of sale, twenty-five cents; the Tax Collector shall have twenty-five cents for serving each notice which may be given by registered mail with return receipt demanded, but for his attendance at court, he shall receive no pay; but in case of appeal, the sheriff and the clerk of the appellate court shall be entitled to the same fees as for services in like cases.

Section 240. The excess arising from the sale of any real estate remaining after paying the amount of the decree of sale, and costs and expenses subsequently accruing, shall be paid over to the owner, or his agent, or to the person legally representing such owner, or into the county treasurer, it may be paid therefrom to such owner, agent or representative in the same manner as to the excess arising from the sale of personal property sold for taxes is paid. If such excess is not called for within three years after such sale by the person entitled to receive the same, upon the order of the Court of County Commissioners or the Board of Revenue, stating the case or cases in which such excess was paid, together with a description of the lands sold, when sold, and the amount of such excess, the county treasurer shall place such excess of money to the credit of the general fund of the county, and make a record on his books of the same, and such money shall thereafter be treated as part of the general fund of the county. At any time within ten years after such excess has been passed to the credit of the general fund of the county, the Court of County Commissioners or Board of Revenue, may on proof made by any person that he is

the rightful owner of such excess of money, order the payment thereof to such owner, his heir or legal representative, but if not so ordered and paid within such time, the same shall become the property of the county.

Section 241. After the expiration of three years from the date of the sale of any real estate for taxes, the Judge of Probate then in office must execute and deliver to the purchaser, other than the State, or person to whom the certificate of purchase has been assigned, upon the return of the certificate and payment of a fee of one dollar to the Judge of Probate, a deed to each lot or parcel of real estate sold to the purchaser and remaining unredeemed, including therein, if desired by the purchaser, any number of parcels, or lots purchased by him at such sale; and such deed shall convey to and vest in the grantee all the right, title, interest and estate of the person whose duty it was to pay the taxes on such real estate, and the lien and claim of the State and County thereto, but it shall not convey the right, title or interest of any reversioner or remainderman therein.

Section 242. Such deed shall be signed by the Judge of Probate in his official capacity, and by him acknowledged before some officer authorized to take acknowledgement of deeds, and it shall be, in all the courts of the State, prima facie evidence of the regularity of all proceedings recited therein both prior and subsequent to the decree of sale in any controversy, proceeding, or suit involving or concerning the rights of the purchaser, his heirs or assigns to the real estate thereby conveyed.

## ARTICLE VIII

### Chapter 2

#### STATE LAND COMMISSIONER

Section 243: (a) One member of the State Tax Commission shall be designated and known, for the purpose of this Act, as "State Land Commissioner." Such member of the State Tax Commission shall be so designated by the Governor. (b) The State Land Commissioner with the approval of the Governor, shall employ such agents or assistants as deemed necessary to carry out the provisions of this Act with respect to the duties of the State Land Commissioner herein provided for. Compensation of such agents or assistants must be approved by the Governor and such compensation and expenses shall be paid by the State Treasurer out of the appropriation made for the annual expenses of the State Tax Commission. (c) When the term "State Land Commissioner" is used in this Act it shall be held to mean a member of the State Tax

Commission designated by the Governor as such Commissioner. (d) The member of the State Tax Commission designated as State Land Commissioner shall not receive any compensation as State Land Commissioner. (e) The duties of "State Land Commissioner" as herein designated shall be in addition to the duties required by law of a member of the State Tax Commission.

Section 244. It shall be the duty of the State Land Commissioner to perform the duties now imposed on the State Tax Commission and the State Commission of Forestry with reference to land sold to the State for taxes, and the redemption thereof, and such other duties as are specifically imposed by this Act. The State Land Commissioner shall have supervision and control of all real estate bought in by the State at tax sales, shall rent, lease or operate same, and make conveyances thereof when authorized by law and shall perform any and all duties with reference to such real estate as may be required by law or directed by the Governor or the State Tax Commission.

Section 245. The State Land Commissioner shall appoint, with the approval of the Governor, such agents as may be necessary to look after, protect against trespassers and rent any real estate bid in by the State at tax sales and to perform any and all duties relative to such lands as may be required by the State Land Commissioner and such agents shall be under the control and supervision of the State Land Commissioner and may be removed by him at any time, with or without cause. Such agents under the direction of the State Land Commissioner shall investigate sales of real estate for taxes bid in by the State, notify the parties at interest in such real estate or sales, secure redemption, sales of property, prevent waste and perform any and all duties relating to lands bid in by the State at tax sales as the State Land Commissioner may direct.

Section 246. The Attorney General must furnish the State Land Commissioner with suitable forms of certificates of purchase and deeds to purchasers at sales of real estate for taxes from which the State Land Commissioner shall cause to be printed a sufficient number of blank certificates and deeds and distribute the same among the several judges of probate to be used by them and tax collectors on the sales of lands for taxes.

Section 247. It shall be the duty of the State Land Commissioner to transmit to the Tax Assessor of each county by the first day of August of each year a descriptive list of all the lands in the county reported to him as bid in for the State during the year and not redeemed, and it shall be the duty of said county Tax Assessor to compare such list carefully with the record of sales of land for taxes in the county, and of the redemption thereof, and to ascertain if any of such lands have been redeemed or were not liable for the taxes for which they were sold; if any of such lands are ascer-

tained to have been redeemed or to have been sold for taxes for which they were not liable, the said County Tax Assessor shall promptly certify the facts to the State Land Commissioner and the Probate Judge shall correct the record of land sales in his office accordingly. The County Tax Assessor with the approval of the Board of Review shall annually put a fair valuation on the remainder of the lands contained in such descriptive list and shall enter such valuation and calculate the taxes upon such descriptive list, and return the same to the State Land Commissioner who shall thereupon and annually thereafter until such land is redeemed or recovered or sold by the State, without further assessments, except as hereinafter provided add the amount of taxes so assessed on such valuation to the amount for which the lands were sold and such proceedings shall have the effect of a due assessment of taxes against said land. The Assessor shall furnish to the Judge of Probate a copy of the list returned to the State Land Commissioner, and it shall be the duty of the Judge of Probate to enter the taxes therein calculated on the record of sale thereof kept in his office.

## ARTICLE VIII.

### Chapter 3.

#### RIGHTS AND REMEDIES OF PURCHASERS OF LAND OF LAND AT TAX SALES.

Section 248. When the sale of any land sold for the payment of taxes is, for any cause, ineffectual to pass the title to the purchaser, whether individual or the State, except in the case in which such sales are in this chapter expressly declared to be invalid, such sale shall operate as an assignment to the purchaser of the rights and liens of the State and county in and to the lands sold, both as to the taxes paid at said sale, and as to the taxes subsequently paid by the purchaser. And such liens may be foreclosed in equity in the same manner as other liens as provided in this Act.

Section 249. When lands are sold for taxes which are not liable therefor, the purchaser may recover from the officer by whose fault or neglect the assessment or sale was made, and the sureties on his official bond, the amount of the purchase money paid him therefor, with interest thereon from the day of the sale, together with all costs which are adjudged against him in any suit concerning said land involving such tax title.

Section 250. In case of the sale of any real estate, either for the collection of the taxes thereon or for the collection of other taxes due by the owner thereof, said real estate shall be described in all the proceedings incident to the condemnation and sale there-

of, and in the certificate and deed issued to the purchaser at said sale in the manner described in the assessment thereof, and in case of failure of the tax collector to so describe said property in any part of said proceedings, certificate or deed, by reason of which said deed may be held insufficient to convey the property intended to be referred to, the said tax collector and the sureties on his official bond shall be liable to the purchaser at said tax sale for all amounts paid by him for such land, together with cost of suit for same. Should, however, the property be insufficiently described in the assessment thereof the said tax assessor and the sureties on his official bond shall likewise be responsible to the purchaser, or in case the said liability has been enforced against said tax collector, then the said assessor and the sureties on his official bond shall be liable to the tax collector, or his sureties, for whatever sum he shall have been compelled to pay to said purchaser on account of said defect together with cost adjudged against him in suit for such lands.

Section 251. When lands are bid in for the State at tax sales the State shall be entitled to possession of said lands immediately upon execution of the certificate of sale by the Judge of Probate. If possession be not surrendered within six months from the date of sale, after demand therefor is made by the State Land Commissioner in behalf of the State, or if the certificate has been assigned, by the assignee, then the State Land Commissioner in the name of the State or the assignee of the State, if the certificate has been assigned, may maintain an action in ejectment, unlawful detainer, or a statutory real action in the nature of ejectment, or other proper remedy for the recovery of the possession of the lands purchased at such sales, and shall be entitled to hold the possession thereof on recovery. Provided that this shall not affect the right of minors or insane persons to redeem as provided in this Act. Provided mortgagees or other lien holders of record at the time of sale shall be served with a written notice of purchase at tax sale for the State, which notice shall be given in the name of the State by the State Land Commissioner, and such mortgagees or other lien holders shall have one year from date of such notice to redeem such lands. Provided that a notice filed in the office of the Judge of Probate of the county where the land is situated reciting the sale, the fact that such lands were bid in for the State, and the certificate of purchase and notifying all parties desiring to redeem shall be and operate as sufficient notice to such mortgagees or lien holders to redeem.

Section 252. Any purchaser of lands at a tax sale other than the State or anyone claiming under him, shall be entitled to possession of said lands immediately upon receipt of certificate of sale from the Tax Collector, and if possession be not surrendered within six months after demand therefor is made by said purchaser



or his assignee, the said purchaser or his assignee may maintain an action in ejectment, unlawful detainer, or a statutory real action in the nature of ejectment, or other proper remedy for the recovery of the possession of the lands purchased at such sales, and shall be entitled to hold the possession thereof on recovery. Provided that this shall not affect the right of minors or insane persons to redeem as provided in this Act. Provided mortgagees or other lien holders of record at the time of sale shall be served with the written notice of purchase at tax sale, and shall have one year from the date of such notice to redeem such land. Provided further that a notice filed in the office of the Judge of Probate setting out the fact of tax sale, the purchase, the issuance of the certificate of purchase, and notifying all parties desiring to redeem to do so, shall be and operate as sufficient notice to such mortgagee or other lien holders to redeem.

Section 253. If in any suit brought for the possession of land sold for taxes the title of the purchaser at the tax sale shall be defeated on account of any defect in the proceedings under which the sale is had, or on account of any defect in or insufficiency of the process by which the owner of the land was brought before the probate court, as is provided, or in the service of said process, or by reason of the failure of the judge of probate on account of any negligence or refusal on his part to produce, when called upon, sufficient evidence of the proper issuance and service of said notice or process, or by reason of any other defect or insufficiency in any of the proceedings for the condemnation and sale of said property, or of the certificate or deed to said purchaser, or any two or more of said causes, the officer or officers on account of whose omission or error said defect or insufficiency or defects or insufficiencies shall have arisen, together with the sureties on the official bond, shall be liable to the purchaser whose title shall be thus defeated, and to his assignees, for the full sum of the purchase money paid by him at said tax sale for said property, the cost of the suit in which said title failed, which the purchaser shall have incurred in attempting to maintain his title under said tax sale, together with the interest upon each of these amounts, at the rate of eight per cent per annum; provided, that except as to the State suits under this section shall be commenced within five years from the sale.

Section 254. If in any suit brought by the purchaser, or other person claiming under him, to recover the possession of lands sold for taxes, a recovery is defeated on the ground that such sale was invalid for any other reason than that the taxes were not due, the court shall forthwith, on the motion of the plaintiff, ascertain the amount of taxes for which the lands were liable at the time of the sale, and for the payment of which they were sold, with interest thereon from the date of sale, and the amount of such taxes on the lands, if any, as the plaintiff, or the person under whom he claims,

has, since such sale, lawfully paid or assumed by the State after its purchase, with interest thereon from the date of such payment, the interest on both amounts to be computed at the rate of eight per cent per annum; and the court shall thereupon render judgment against the defendant in favor of the plaintiff for the amount ascertained, and the costs of the suit which judgment shall constitute a lien on the lands sued for, and payment thereof may be enforced as in other cases.

Section 255. If in a suit brought against such purchaser or other person claiming under him, to recover possession of lands sold for taxes, the defendant claims and defends under the tax title, and his defense fails on the ground that such sale was invalid for any other reason than that the taxes were not due, and the plaintiff recovers, the court shall forthwith, on the motion of the defendant, ascertain the amount of taxes for which the lands were liable at the time of the sale and for the payment of which they were sold, with interest thereon from the day of sale, and the amount of such taxes on the lands, if any, as the defendant, or the person under whom he claims, has, since such sale, lawfully paid or assumed, in case of the State with interest thereon from the date of such payment, the interest on both amounts to be computed at the rate of eight per cent per annum; and the court shall thereupon render judgment against the plaintiff in favor of the defendant for the amount ascertained, and the cost of the suit, which judgment shall constitute a lien on the land sued for, the payment of which may be enforced as in other cases and no writ of possession shall issue until such judgment has been satisfied, the court may order the land sold or condemn it to the satisfaction of the debt.

Section 256. In any suit under the provisions of either of the last two preceding sections, the party claiming adversely to the tax title may, at any time, tender the amounts required in such sections to be ascertained by the court, with interest as therein prescribed; and no costs accruing after such tender shall be recovered of him, if, upon a refusal of the tender, he shall pay such amounts into court.

Section 257. When a suit is brought to recover possession of lands by either the State, its assignee or by purchaser other than the State, or his assignee as provided by Sections 251 and 252 of this Act, the complainant shall recite the fact of the tax sale and purchase, and the certificate of purchase, and the same shall prima facie be sufficient to entitle the complainant to judgment, and the burden shall be on the respondent to show that the complainant is not entitled to recover.

Section 258. If in any suit brought to recover the possession of lands sold for taxes, by or against the purchaser, or other person claiming under him, it is shown that the party claiming adversely to the tax title, being entitled to redeem, made within the time

allowed for redemption, the payment required by law for the redemption of such lands, or made tender thereof, and the amount of such tender has been paid into court for the opposite party, judgment must be rendered in his favor for the costs accruing after such payment or tender, except as against the State.

Section 259. Unless otherwise provided, on the trial of any issue involving the sale of real estate for taxes, or the redemption thereof, the books and records belonging to the office of the judge of probate, tax collector or tax assessor, and required by law to be kept or certified copies therefrom shall be *prima facie* evidence of the facts stated therein.

Section 260. No action for the recovery of real estate sold for the payment of taxes shall lie unless the same is brought within three years from the date when the purchaser became entitled to demand a deed therefor; but if the owner of such real estate was, at the time of such sale, under the age of twenty-one years, or insane, he, his heirs or legal representatives, shall be allowed one year after such disability is removed to bring suit for the recovery thereof; but this section shall not apply to any action brought by the State; nor to cases in which the owner of the real estate sold had paid the taxes, for the payment of which such real estate was sold, prior to such sale; nor shall they apply to cases in which the real estate sold was not, at the time of the assessment, or of the sale, subject to taxation.

Section 261. When the suit is against the person against whom the taxes were assessed, or the owner of the land at the time of the sale, his heir, devisee, vendee, or mortgagee, the court shall, on motion of the defendant made at any time before the trial of the cause, ascertain the amount paid by the purchaser at the sale, and of the taxes subsequently paid by the purchaser, together with eight per cent per annum thereon, and a reasonable attorney's fee for the plaintiff's attorney for bringing the suit, and shall enter judgment for the amount so ascertained in favor of the plaintiff against the defendant, and the judgment shall be a lien on the land sued for. Upon the payment into court of the amount of the judgment and costs, the court shall enter judgment for the defendant for the land, and all title and interest in the land, shall by such judgment be divested out of the owner of the tax deed.

## ARTICLE VIII.

### Chapter 4.

Section 262. When land which has been sold for taxes and purchased by the State has been sold by the State at private sale, and the purchase money has been paid into the State and county treasuries, and it shall be made to appear to the satisfaction of the State

Comptroller that such sale was invalid by reason of the fact that the taxes for which the land was sold were not due, the purchaser of said land from the State, his heirs, or assigns, shall upon the surrender of the deed from the State and the cancellation of the same, be entitled to have the purchase money paid for the said lands refunded, if application shall be made therefor, as hereinafter provided, within two years from the date of the deed made by the State.

Section 263. When land has been sold for taxes and purchased by any one other than the State, and the purchase money has been paid into the State, and county treasuries, and it shall be made to appear to the satisfaction of the State Comptroller that such sale was invalid by reason of the fact that the taxes for which the land was sold were not due, the purchaser of said land, his heirs or assigns, upon the surrender of the certificate of purchase, shall be entitled to have the amount paid for the purchase of said land refunded to him, if application shall be made therefor as hereinafter provided, within two years from the date of sale, and before the execution of a deed to such purchaser.

Section 264. In order to procure the refunding under the provisions of the two preceding sections, of the amounts erroneously paid for the purchase of property, the purchaser, his heirs or assigns shall file in triplicate a petition directed to the Chairman of the Board of County Commissioners, or Board of Revenue of the county, wherein the land is situated, setting up the facts relied on to procure the refunding of the money so erroneously paid.

Section 265. The Chairman of the Board of County Commissioners or Board of Revenue shall examine said petition and also the tax books of his county, and if the facts set forth in the petition are such as to entitle petitioner to the refunding of the money as prayed for, he shall so certify to the Comptroller, stating the amount to be refunded by the State, and forward to the Comptroller a copy of the petition with his certificate endorsed thereon, and if the Comptroller shall be satisfied that the petitioner is entitled to have the money refunded to him, he shall draw his warrant on the State Treasurer in favor of the petitioner for such an amount as the certificate of the Chairman of the Board of County Commissioners or Board of Revenue shows should be refunded.

Section 266. The Chairman of the Board of County Commissioners, or Board of Revenue shall likewise certify his findings on the triplicate petition stating the amount of money which petitioner is entitled to receive from the county and from the county school and district school fund, and such petition with his certificate endorsed thereon, he shall deliver to the petitioner who may present a copy to the Court of County Commissioners or like governing bodies and if said Court is satisfied with the proof of the claim made by the petition, the Court must allow said claims

to the amount of taxes paid to the County, and draw a warrant on the Treasurer of the county for the amount allowed in favor of the petitioner, and the petitioner may likewise present a copy of such petition with the certificate of the Chairman of the Board of County Commissioners, Board of Revenue, endorsed thereon to the County Board of Education, and the fact of the allowance by the State Comptroller, and the Court of County Commissioners or like governing bodies, and thereupon such County School Board shall allow said claim to the amount of taxes paid to the county school fund, and the district school fund, and draw a warrant on the County Treasurer of School Funds for the amounts due from the County School Fund, and from the District School Fund.

Section 267. The State Comptroller must also ascertain the amount of such purchase money which has been paid to the county in which the land is situated, as fees, costs, taxes, penalty and interest, or on other account, if any such payment has been made on account of such purchase, which amount he shall certify to the Judge of Probate of such county, or presiding officer of the court of like jurisdiction where the Judge of Probate has no connection with such court, who shall present such claim at the next succeeding term of the Commissioners' court or court of like jurisdiction of such county, whereupon such court shall order a warrant in favor of the State for such amount, which warrant shall be a preferred claim against the county, and payable by the County Treasurer to the Judge of Probate, or presiding officer of any court of like jurisdiction where the Judge of Probate has no connection with such court, who shall forthwith forward such amount, less cost of remitting, to the State Treasury, and report it to the State Comptroller.

## ARTICLE VIII.

### Chapter 5.

#### REDEMPTION OF LANDS SOLD FOR TAXES.

Section 268. Real estate which hereafter may be sold for taxes and purchased by the State may be redeemed at any time before the title passes out of the State, or if purchased by any other purchaser, may be redeemed at any time within three years from the date of the sale by the owner, his heirs or personal representatives, or by any mortgagee or purchaser of such lands, or any part thereof, or by any person having an interest therein, or in any part thereof, legal or equitable, in severalty or as tenant in common, including a judgment creditor, or other creditor having a lien thereon, or on any part thereof; and an infant or insane person entitled to re-

deem at any time before the expiration of three years from the sale, may redeem at any time within one year after the removal of his disability; and such redemption may be of any part of the lands so sold, which includes the whole of the interest of the redemptioner. If the mortgage or other instrument creating a lien under which a party seeks to redeem is duly recorded at the time of said tax sale, the said party shall, in addition to the time herein specified, have the right to redeem said real estate sold, or any portion thereof covered by his mortgage or lien, at any time within one year from the date of written notice from the purchaser of his purchase of said lands at tax sale, served upon such party, and notice served upon either the original mortgagee or lien holder or their transferee of record, or their heirs, personal representatives or assigns, shall be sufficient notice.

Section 269. (a) In order to obtain the redemption of land from tax sales, where the same has been sold to the State, the party desiring to make such redemption shall deposit with the judge of probate of the county in which the land is situated the amount of money for which the lands were sold, with interest thereon at the rate of six per cent per annum from the date of sale, together with the amount of all taxes found to be due on such lands since the date of sale; as provided herein, with interest thereon at the rate of six per cent per annum from the maturity of such taxes, and all costs and fees due to officers as set out in the following sections. (b) Upon application to the probate judge to redeem land where the same has been sold to the State for taxes, which application shall be made on blank forms furnished by the State Land Commissioner, the probate judge shall submit such application to the Tax Assessor of the county in which the land sought to be redeemed is located and the Assessor shall, without delay, enter on such application an assessment value for each of the years for which taxes are due, subsequent to the year for which such land was sold to the State for taxes, and such assessment value shall be sixty percent of the fair and reasonable market value of such lands as of October 1st of the year or years subsequent to the year for which the land was sold for taxes. (c) The redemptioner shall deposit with the probate judge the amount of money for which lands were sold for taxes plus the amount of money due for subsequent years based on the assessment value as required to be fixed in sub-section (b) of this Section and interest, cost and fees as provided in sub-section (a) of this Section.

Section 270. In order to obtain the redemption of land from tax sales where the same has been sold to another than the State, the party desiring to make such redemption shall deposit with the judge of probate of the county in which the land is situated, the amount of money for which the lands were sold, with interest there-

on at the rate of six per cent per annum from date of sale, together with the amount of all taxes which have been paid by the purchaser, which fact shall be ascertained by consulting the records in the office of the tax collector, with interest on said payment at six per cent per annum. If any taxes on said land have been assessed to the purchaser and have not been paid, and if said taxes are due which may be ascertained by consulting the tax collector of the county, the probate judge shall also require the party desiring to redeem said land, to pay the tax collector the taxes due on said lands, which have not been paid by the purchaser, before he is entitled to redeem the same. In all redemptions of land from tax sales, the party, securing the redemption shall pay all costs and fees as herein provided for due to officers and a fee of fifty cents to the judge of probate for his services in the matter of redemption.

Section 271. When distinct lots or parcels of land have been included in one assessment and sold for taxes under one decree, any person including the owner, whose interest in one of the more of such lots or parcels is such as to entitle him to redeem, may redeem the lots or parcels in which he has such interest, without redeeming all of said property, provided that any owners desiring to redeem any one or more parcels of land must also pay all tax on personal property assessed against him in said assessment, together with all cost of court and advertising fees.

Section 271-1. When any tract, lots or parcels of land have been included in one assessment and sold for taxes under one decree, the owner or any one entitled to redeem may redeem any lot or part of said property where the part to be redeemed can be ascertained by legal and usual subdivision. It shall be the duty of the Tax Assessor to ascertain the amount of taxes on such portion desired to be redeemed as provided for under Section 269 of this Act.

Section 272. A person desiring to redeem any separate lot or parcel of land as authorized by the preceding section, must file with the judge of probate application in writing, under oath setting forth the date of the decree, the name of the defaulting taxpayer against whom the same was rendered, the description and character of each lot or parcel of land included in the decree and the assessed value thereof, if separately valued in the assessment, or if not separately valued, stating that fact, and stating the assessed value of the whole of the lands, a description of the lot or parcel which the applicant seeks to redeem, and if not separately valued in the assessment, stating the value thereof at the time of the assessment, the nature of his interest in such lot or parcel; and such applicant must deposit with the judge of probate a sum of money which bears the same proportion to the amount of taxes, interest and costs which would be required to redeem all the lands included in the decree, that the value of such lot or parcel, as sep-

arately assessed, or if not separately assessed, as ascertained by the judge of probate, bears to the value of the whole of the lands included in the decree, and in addition thereto, such applicant must deposit the amount of proportionate costs and officers' fees which may have accrued upon such assessment and sale.

Section 273. The judge of probate must, before allowing the redemption of a separate lot or parcel of land under the two preceding sections, submit the application, together with a copy of the statement of calculation ascertaining the amount to be paid on such redemption, to the State Land Commissioner for his approval, and the State Land Commissioner may call upon the judge of probate or the assessor, or the collector for any information he may desire touching the application. If the State Land Commissioner is satisfied that the applicant is entitled to redeem such lot or parcel of land, and that the proper amount of money has been deposited with the judge of probate, the State Land Commissioner shall endorse his approval upon the application and return the same to the judge of probate, who must allow the redemption; but without the approval of the State Land Commissioner, the judge of probate must not allow the redemption and must return to the applicant the money deposited by him for that purpose, when such application is made within the time allowed by law for redemption the same may be perfected as herein provided, notwithstanding the expiration of such limitations, where the land sought to be redeemed has been purchased by an individual and not by the State, it shall not be necessary to submit the matter to the State Land Commissioner.

Section 274. Upon the payment of the amount required by law for the redemption of the lands sold for taxes by a person entitled to redeem, the judge of probate must issue such person a certificate of redemption describing the lands, setting forth the facts of the sale, substantially as contained in the certificate of purchase, the date of redemption, the amount paid, and by whom the lands were redeemed, and he must make the proper entries in the book of sales in his office and immediately give notice of such redemption to the county treasurer, or custodian of the county funds and the certificate must then be presented to such treasurer, or custodian of county funds, who shall countersign the same, and unless so countersigned, no certificate shall be held as evidence of redemption, and it shall be the duty of the judge of probate to keep a book of certificates of redemption, and every blank shall have a stub attached thereto, on which shall be printed such matter as the State Land Commissioner may prescribe, with appropriate blank spaces to be filled by the judge of probate upon the issuance of any certificates of redemption. The State Land Commissioner shall take and file in his office a proper receipt from judge of pro-



bate for the certificates of redemption so furnished him. If such lands were bid in by the State, the person redeeming shall present to the State Land Commissioner the certificates of redemption, and the State Land Commissioner shall give to such person a certificate releasing all claims to the land acquired by the State at the tax sale.

Section 275. If the lands redeemed were bid in by any person other than the State, the redemption money must be deposited by the judge of probate in the county treasury, and there kept separate and apart from the general funds of the county, and the judge of probate shall notify the purchaser of such deposit by mailing notice to the residence or place of business of such purchaser, or to such address as the purchaser may furnish the judge of probate at the time he secures his certificate of purchase; and upon the demand of the purchaser, his legal representative or assignee, and the surrender of the certificate of purchase, the judge of probate must give him an order on the treasury for the same.

Section 276. When lands which have been bid in by the State are redeemed, the judge of probate must during the month in which such redemption is made, remit to the State treasurer, at the expense of the State the proportion of the redemption money belonging to the State, and pay into the county treasury the proportion of such money belonging to the county, and to the proper authorities the proportion belonging to the school fund, if any; and upon all such money so paid over during the month of collection, he is entitled to commission at the rate of two and one-half per cent which he may deduct therefrom, but he shall not be allowed any commissions on any money not so paid over; and on the last business day of each month the judge of probate shall certify to the State Land Commissioner and to the county treasurer, upon blanks to be furnished by the comptroller, a full and correct statement of all real estate bid in by the State and redeemed, showing separately the amount of State, county and school taxes and penalties and costs received by him on such redemption, and if no lands have been redeemed, he shall report that fact.

Section 277. Within five days from the redemption of any real estate bid in by the State, the judge of probate shall notify the tax assessor and tax collector of his county thereof, and shall, on demand, pay to them the costs and fees to which they are respectively entitled; and the assessor shall enter such real estate, and the name of the person redeeming the same, on an appropriate list to be kept by him for assessment.

Section 278. Neither the purchaser, nor any one claiming under him, who may have lawfully obtained possession of any real estate purchased at tax sales, shall be liable upon the redemption of such

real estate, to account to the owner for any rents, issues or profits during such possession, but as to such rents, issues and profits he shall be held and considered the rightful owner of such real estate unless such owner at the time of the sale was a minor, a person of unsound mind, and had no guardian, or his guardian was not lawfully served with notice of the proceedings had in the Court of Probate for the sale of such real estate, in which event such purchaser or other person in possession shall be liable for rents, issues and profits, as in other cases; but neither such purchaser nor any one claiming under him shall have the right to cut standing timber from land so purchased at tax sales, nor shall have the right to remove or destroy any improvements on said property or commit waste, until he shall have received a deed for the land from the Probate Judge, and anyone in possession shall have the right to growing crops planted by him.

Section 279. It shall be the duty of the State Land Commissioner to cause to be prepared a suitable book, in which shall be entered a description, as accurate as can be obtained, of all the lands which have been bid in by the State, with the amount of State and county taxes due thereon, the date when such lands were bid in; and when three years shall have elapsed from the date of sale, such portions of lands as have not been redeemed shall be subject to sale by the State; and the State Land Commissioner with the approval of the governor, may sell the same at private sale to any purchaser, who may pay therefor in cash to the treasurer, such sum of money as the State Land Commissioner may ascertain to be sufficient to cover and satisfy all claims of the State and county, which sum shall not be less than the amount of money for which the lands were bid in by the State, with interest thereon at the rate of six per cent per annum from the date of sale, together with the amount of all taxes due on said lands since date of sale, with interest thereon at the rate of six per cent per annum from the maturity of such taxes. Provided, that if lands have not been redeemed or sold by the State five years from date of sale, such lands may be sold by the State Land Commissioner as hereinafter provided.

Section 280. When application is made to the State Land Commissioner by any person to purchase lands in which such person had no interest, the State Land Commissioner shall mail a notice in writing to the owner, or some person having an interest in such land, if his place of residence is known, or if not known, then to the judge of probate of the county in which such lands are situated, informing him that such application has been made and fixing a reasonable time within which such owner or other person having an interest in the lands may redeem the same. The judge of probate shall cause the notice to be posted at the courthouse, and he

shall mail a copy of said notice to the owner, if known to him; and if such lands are not redeemed within the time so fixed, the same shall be sold to the applicant, or any other person desiring to purchase the same, without other or further notice to such owner or persons having an interest in the lands. If such lands are redeemed within the time so fixed, the judge of probate must, without delay, report the same to the State Land Commissioner, and pay over the redemption money as required by law.

Section 281. When real estate which has heretofore been sold for taxes and bought in by the State and the period of redemption has expired the State Land Commissioner with the approval of the Governor, may sell all the right, title and interest of the State to such real estate at the best price obtainable and upon such terms as he may determine, Provided, such amount shall not be less than the taxes due thereon for a period of three years, without interest, costs or penalties. (b) Provided, However, that where real estate has been sold for taxes and bid in for the State and not redeemed within five years from date of sale the State Land Commissioner shall have the right to sell the right, title and interest of the State to such real estate at the best price obtainable, irrespective of the amount of taxes due, and upon such terms as he may determine. The provisions of this sub-section shall apply to real estate heretofore sold for taxes and bid in by the State and also shall apply to real estate that may be hereafter bid in for the State at tax sales.

Section 282. When lands have been sold by the State, as provided in Sections 279 and 281, and the purchase money has been paid, the State Land Commissioner, in behalf of the State, shall execute to the purchaser a deed, duly acknowledged, without warranty or covenant of any kind on the part of the State, express or implied conveying to him all the right, title and interest of the State in and to the lands purchased by him; and such purchaser shall thereafter have all the right, title and interest of the State, in and to such lands, and shall be held, and treated as the assignee of all the taxes due upon such lands, or for which they were sold, and the penalties and all of the taxes that should have been under the law assessed upon the same, if they had been the property of a private citizen of the State, and he shall be clothed with all the rights, liens, powers and remedies, whether as a plaintiff or defendant, respecting said lands as an individual purchaser at the tax collector's sale would have in similar circumstances; and all such liens and charges as the State had before such sale by the State Land Commissioner shall be enforced in favor of such purchaser from him, as under the provisions of law relating to individual purchasers at sales by the tax collector, such purchaser on failure of his title shall have his lien and charges assessed by the court or

by a jury and may foreclose the same by proceeding at law in such suit.

Section 283. Upon the consummation of such sale the State Land Commissioner must certify the same to the judge of probate, who shall make entry thereof in the book of land sales in his office; and the Commissioner shall furnish a description of such lands to the assessor of the county in which they are situated, who shall enter the same upon his list for assessment; but the time allowed infants and lunatics in which to redeem lands sold for taxes, shall in no wise be affected by any such sale and conveyance.

Section 284. Any lands which have been bid in by the State at tax sale shall, after three years have elapsed from the date of sale to the State and no person having any interest therein having redeemed same from tax sale, be subject to conveyance to the State Commission of Forestry in the manner hereinafter provided: (a) Whenever the State Commission of Forestry shall determine any lands which have been bid in by the State at tax sale and the title to which has not passed out of the State, to be suitable or desirable for the use of the said Forestry Commission, either for the purpose of being used as a State Park, State Forest or for the purpose of exchange for other lands of equal value, which are determined to be suitable for said purposes, or for any other use or disposition which the State Commission of Forestry may hereafter be authorized by law to make of such lands, the State Commission of Forestry shall file with the State Land Commissioner a written application, signed by the State Forester, on form to be prescribed by the State Land Commissioner, giving such information as may be required by the State Land Commissioner. (b) When application is made to the State Land Commissioner for the conveyance of any lands to the State Commission of Forestry, the State Land Commissioner shall mail a notice in writing to the owner, or some person having an interest in such land, if his place of residence is known to the State Land Commissioner, and also to the Judge of Probate of the county in which such lands are situated, informing the owner or other persons having an interest in such land that such application has been made, and informing him that he shall have thirty days from the date of said notice within which to redeem said lands, and the Judge of Probate shall cause the notice to be posted at the courthouse and he shall mail a copy of said notice to the owner, if known to him; and if such lands are not redeemed within the time so fixed, the same shall, upon approval of the Governor, be conveyed to the State Commission of Forestry, without other or further notice to such owner or persons having an interest in the lands. If such lands are redeemed within the time so fixed, the Judge of Probate must, without delay, report the

same to the State Land Commissioner, and pay over the redemption money as required by law.

Section 285. The right to redeem any real estate bid in for the State shall be forfeited unless such real estate is redeemed within the time prescribed by this Act, and if not redeemed within that time, all right, title and interest of the owner of such real estate, and of the person whose duty it was to pay the taxes thereon, in and to such real estate, shall be transferred to and absolutely vested in the State and may be conveyed by the State Land Commissioner, in behalf of the State, to the State Commission of Forestry for its use or disposal as may now or hereafter be authorized by law.

Section 286. When lands are required to be conveyed to the State Commission of Forestry, as hereinabove provided, the State Land Commissioner, in behalf of the State, with the approval of the Governor, shall execute to the State Commission of Forestry, a deed, duly acknowledged, without warranty or covenant of any kind on the part of the State, express or implied, conveying to the said State Commission of Forestry all the right, title and interest of the State in and to the lands so conveyed. The State Commission of Forestry shall thereafter have all the right, title and interest of the State in and to such lands, and shall be held and treated as the assignee of all the taxes due upon such lands, or for which they were sold and the penalties and all of the taxes that should have been under the law assessed upon the same, if they had been the property of a private citizen of the State, and it shall be clothed with all the rights, liens, powers and remedies, whether as a plaintiff or defendant, respecting said lands as an individual purchaser at the tax collector's sale would have in similar circumstances, and all such liens and charges as the State had before such conveyance by the State Land Commissioner shall be enforced in favor of the State Commission of Forestry, as under the provisions of law relating to individual purchasers at sales by the tax collector; The State Commission of Forestry, on failure of its title, shall have its lien and charges assessed by the courts or by a jury and may foreclose the same by proceeding at law in such suit.

Section 287. Whenever it is determined by the State Land Commissioner that it is to the best interest of the State to convey to the State Commission of Forestry the title of any lands which have been bid in at tax sale and which remain unredeemed, he may, on his own motion, and without application being filed by the State Commission of Forestry, issue notice to the former owner or some person having an interest in such land, in the same manner as heretofore provided for in cases where application for conveyance has been filed by the State Commission of Forestry; and if such lands

are not redeemed within the time so fixed, the same shall, upon approval of the Governor, be conveyed to the State Commission of Forestry in the same manner as if application for such conveyance had been filed by the State Commission of Forestry.

Section 288. When lands bid in by the State have been sold by the State under any of the provisions of this chapter, the State Land Commissioner shall certify to the State Comptroller the amount and the State Comptroller shall draw his warrant on the State Treasurer in favor of the judge of probate of the county in which the lands lie, for the county and school taxes, and the fees and costs due to the different officers of the county, specifying each separately; and if the same cannot be ascertained from the records and papers in his office, the judge of probate, on notice by the State Land Commissioner of such redemption or sale, must certify the same to him and the judge of probate, upon the collection of such warrant, shall pay the same over to the officers entitled thereto, or authorized by law to receive the same.

Section 289. The right to redeem any real estate bid in for the State shall be forfeited unless such real estate is redeemed within the time prescribed by this act, and if not redeemed within that time, all the right, title and interest of the owner of such real estate, and of the person whose duty it was to pay the taxes thereon, in and to such real estate, shall be transferred to and absolutely vested in the State.

Section 290. The provisions of the foregoing sections relating to redemption of real estate sold for taxes shall apply to all sales made subsequent to January 1, 1935.

Section 291. Whenever any real estate has prior to January 1, 1935, been sold for taxes and bid in by the State at tax sale, the same may be redeemed in the same manner as heretofore provided for sales made after January 1, 1935, except that the following additional provisions shall apply: All persons having the right to redeem, shall have four years from the date of sale to redeem and such redemption shall be made as in other cases, except that the party desiring to redeem may pay the amount of accrued taxes in four equal installments without interest or penalties. Any person having the right to redeem any property sold to the State for taxes, and who desires to redeem under the provisions hereof, shall, before January 1, 1937, make application to the State Land Commissioner and to the Probate Judge of the County where the real estate is situated, and shall deposit with the Probate Judge one-fourth of the amount of accrued taxes without interest and penalties and annually thereafter, shall pay one-fourth of said sum to the Probate Judge together with all taxes which may become due subsequent to such first payment until the whole amount required has

been paid, and thereupon certificate of redemption shall be issued as in other cases.

Section 292. The State of Alabama shall have a lien for all unpaid partial payments as well as for taxes for any subsequent year, and in case of the failure to pay any one of said installments together with the taxes for any subsequent year, either or both, the State Land Commissioner for and in the name of the State of Alabama, shall at his option declare all said installments due and payable at once. In case of default in payment of any installment or of any subsequent taxes, the State Land Commissioner in the name of the State shall have a right to file a bill in equity to foreclose the lien of the State, and in such suit all parties at interest shall be made parties defendant. Such suit shall be filed in the County where the land or the major portion thereof is situated. The Court shall determine what amount, if any, of such taxes or installments are illegal, and in its final decree shall determine the total amount due on such installment payments, and any unpaid subsequent taxes, and shall render judgment therefor which shall include costs and shall order the property sold to satisfy the decree in the same manner as in the foreclosure of mortgages on real estate in the Court of Equity. If at such sale no one bids a sufficient sum to pay the full amount of the decree, the officer conducting the sale shall announce that the real estate is sold to the State of Alabama for the amount of the decree, interest and costs, and the sale shall be reported to the Court and be confirmed and a deed made to the State of Alabama, and the State shall be entitled to a writ of possession. The purchaser at such sale, including the State shall be entitled to a deed, and the same processes and remedies to obtain possession of the premises as in other suits where land is sold under order of a court of equity, and the title to the land conveyed by such deed shall be indefeasible as to all parties defendant in the action.

Section 293. All moneys arising from such sale shall be applied first to the reimbursement to the State of any amount paid for costs, fees and expenses, incurred in such suit, and the remainder shall be divided between the State and the various taxing subdivisions in the manner provided by law.

Section 294. That the provisions of the foregoing sections applying to sales of real estate to the State for taxes made prior to January 1, 1935, are cumulative and in addition to other methods, and a party desiring to redeem may redeem in the manner provided for sales made subsequent to January 1, 1935.

Section 295. Any mortgagee, lien holder or other creditor, or any person having an interest, but not the legal title, shall have a lien on the lands for the amount expended by him in effecting such

redemption, and if such redemption is by a tenant in common, he shall have a lien on the interest of his co-tenant.

## ARTICLE VIII.

### Chapter 6.

Section 296. Any taxpayer who through any mistake, or by reason of any double assessment, or by any error, in the assessment or collection of taxes, or other error, has paid taxes that were not due upon the property of such taxpayers, shall, unless such tax was with knowledge of the facts voluntarily paid by the taxpayer, be entitled, upon making proof to the satisfaction of the State Comptroller of such payment, to have such taxes refunded to him if application shall be made therefor, as hereinafter provided, within two years from the date of such payment.

Section 297. In order to procure the refunding under the provisions of the preceding section, of the amounts erroneously paid for taxes on property, the taxpayer, his heirs or assigns shall file in duplicate a petition directed to the judge of probate of the county wherein the land is situated, setting up the facts relied on to procure the refunding of the money so erroneously paid.

Section 298. The judge of probate shall examine said petition, and also the tax books of his county, and if the facts set forth in the petition are such as to entitle the petitioner to the refunding of the money as prayed for, he shall so certify to the Comptroller, stating the amount to be refunded by the State, and forward to the Comptroller a copy of the petition with his certificate endorsed thereon, and if the Comptroller shall be satisfied that the petitioner is entitled to have the money refunded to him, he shall draw his warrant on the State treasurer in favor of the petitioner for such an amount as the certificate of the probate judge shows should be refunded.

Section 299. The judge of probate shall likewise certify his findings on the duplicate petition, stating the amount of money which petitioner is entitled to receive from the county, and such petition, with his certificate endorsed thereon, he shall deliver to the petitioner, who may present the same to the court of county commissioners or other like governing body, and if said court is satisfied with the proof of the claim made by the petition, the court must allow said claim to the amount of tax paid to the county, and draw a warrant on the treasurer of the county for the amount allowed in favor of the petitioner.

Section 300. In case of the payment of money under mistake of law or fact upon any illegal tax assessment made under color of any law, special or general, of the State, or by any of its politi-



cal subdivisions, authorizing the assessment or collection of taxes for any purpose whatever, whether for any municipality, for the payment of the creditors of any municipality, for schools, or otherwise, except the laws relating to taxes to be paid to the State or to the general funds of the counties, respectively, the same shall be recoverable by appropriate proceedings at law or in equity against the proper parties or their successors, with the usual rights of appeal, and that such payment was not made under compulsion or protest shall be immaterial.

Section 301. In case of any petition or application for the refund of any money paid as aforesaid, filed with any mayor and alderman or any other municipal or other board, circuit court, or other authority having the control or the administration or the supervision of the receipts or disbursements of any taxes collected under, or under color of, any law mentioned in the preceding section, it shall, upon proper proof, pay or order paid all such money so erroneously paid, and the tax collector, custodian, disbursing officer, or agency under it must obey such order, and also pay such costs as may in such petition or application or suit be awarded, adjudged or decreed in favor of such person making such erroneous payment; but this section shall not apply to assessments where owners of property received special benefits or where taxes were due but irregularly assessed thereon.

Section 302. The provisions of the two preceding sections shall apply to all persons and corporations who are now or may hereafter be justly and equitably entitled to have money erroneously paid for taxes refunded, such payment having been made within one year preceding the commencement of any action, suit, or proceedings for its recovery, and no action or suit or other procedure can be maintained unless brought or commenced within one year after such payment is made.

## ARTICLE VIII.

### Chapter 7.

Section 303. It shall be the duty of the Comptroller to see that the returns, reports, payments and settlements required by law to be made by any and all officers charged with the collection of revenues of the State, under this act, are promptly made by such officers at the times they are required to be made; and in default of the performance by any of them of any such duties, he shall promptly direct such prosecutions or other legal proceedings as may be by law authorized or directed.

Section 304. It shall be the duty of the State Comptroller to cause suit to be brought, in the name of the State, against any and

all persons by law charged with the collection of State taxes, or with any duty in regard to the State revenue, and their sureties, for failure to collect such taxes, or to perform such duty; and he may also in such cases, as in his judgment the interest of the State requires it, cause suit to be brought against defaulting taxpayers for the taxes claimed from them by the State; and in cases in which a reasonable doubt may exist as to the construction or validity of the law under which taxes are claimed, he may authorize an agreed statement of the facts of the case to be made for the speedy adjudication of the matter in controversy.

Section 305. When the State Comptroller finds that he has failed to give any tax collector credit for commissions to which he is entitled, he is authorized to correct such error in his settlement with such collector; and if the account of such collector has been closed, and such commissions have been paid into the State treasury, the State Comptroller shall draw his warrant on the State treasurer for the amount thereof in favor of such collector.

Section 306. The State Comptroller must draw his warrant on the State treasurer in favor of any judge of probate, tax collector, county treasurer, clerk of the circuit court, or other officer paying money into the State treasury, for any amount overpaid into the treasury, by such judge of probate, tax collector, county treasurer, clerk of the circuit court, or other officer.

Section 307. The State Land Commissioner shall have prepared a suitable record in which shall be entered a description of all real estate bid in by the State at tax sale, with the amount of taxes due the State and county and the costs due officers, and the date when such lands were sold.

Section 308. Upon application for the purchase of real estate under this article, the State Land Commissioner shall notify the former owner thereof.

## ARTICLE IX.

### Chapter 1.

#### ADMISSION FOREIGN CORPORATION.

Section 309. **QUALIFICATION FOREIGN CORPORATION**—No corporation created by the law of any other State or any foreign country, except foreign corporations which qualified to do business in this State prior to the passage and approval of this Act, shall engage in or transact any business in this State without first having paid to the State Tax Commission for the use of the State the following qualification fee or admission tax: Each foreign corporation whose actual amount of capital employed or

to be employed in the State at any time is one hundred dollars (\$100.00) or less, shall pay an admission tax of twenty-five per cent (25%) of the actual amount of capital employed or to be employed in the State by it. Each foreign corporation whose actual amount of capital employed or to be employed in this State exceeds one hundred dollars (\$100.00) and does not exceed one thousand dollars (\$1000.00) shall pay an admission tax of twenty-five per cent (25%) upon the first one hundred dollars (\$100.00) of the actual amount of capital employed or to be employed in this State by it, and five per cent (5%) upon all such remaining actual amount of capital employed or to be employed in this State by it over one hundred dollars (\$100.00) and up to and not exceeding the said limit of one thousand dollars (\$1,000.00). Each foreign corporation whose actual amount of capital employed or to be employed in this State exceeds one thousand dollars (\$1,000.00) shall pay an admission tax of twenty-five per cent (25%) upon the first one hundred dollars (\$100.00) of actual amount of capital employed or to be employed in this State by it, and five per cent (5%) upon all such actual capital employed in this State by it over one hundred dollars (\$100.00) and up to one thousand dollars (\$1,000.00), and **one-tenth of one per cent of such actual amount of capital employed** or to be employed in this State by it in excess of one thousand dollars (\$1,000.00). Provided that if after qualification a corporation shall employ an amount greater than that on which admission fees have been paid, it shall immediately report and pay on such additional amount. Strictly benevolent, educational or religious corporations shall not be required to pay such tax.

**Section 310. STATEMENT FILED WITH STATE TAX COMMISSION.** Such foreign corporation shall, at the time of paying such tax, file in the office of the State Tax Commission an instrument of writing under the seal of the corporation and signed officially by the president or other chief officer and the secretary of such corporation, showing the name of the corporation, and the State or county under whose laws it was incorporated, the amount of the total authorized capital of such corporation, the total amount of the actual paid-in capital of such corporation, its principal place of business, the name of the authorized agent of such corporation in this State, and the post office address of such authorized agent of such corporation in this State and the location of the principal place of business of such corporation in this State, and also a statement showing the actual amount of capital employed in this State by such corporation, if such corporation is at the date of the filing of such statement engaged in business in this State, and if such corporation is not at the date of the filing of such statement engaged in business in this State, the statement shall state the actual amount of capital to be employed by such cor-

poration in this State during the calendar year, which statement shall be sworn to by such president or other executive officer and the secretary of said corporation, before some officer authorized under the laws of this State to administer oaths or take acknowledgment of conveyances. If the State Tax Commission shall have any reason to believe that any statement made in such instrument so filed in its office is untrue, or that any fact or facts in such instrument are incorrectly stated, it shall have power to demand of such corporation, its officers or agents, an inspection of the books, records and papers of the said corporation for the purpose of ascertaining the truth or falsity of any such statement, and any such corporation which shall refuse to permit the State Tax Commission, or such person as may be designated by it to inspect the books, records and papers of such corporation when such inspection is demanded by the State Tax Commission, shall not be permitted to transact any business or to do any act in its corporate capacity in this State until such inspection is made. If the State Tax Commission, upon making such inspection of the books, records, and papers of such corporation, shall find that the amount of the capital to be employed, or which is employed, by the said corporation in this State, is in excess of the amount stated in such statement filed by such corporation, it shall make demand upon such corporation, its officers or agents, for the payment of the difference in amount between the admission tax for which such corporation would be liable upon the amount of capital set forth in said statement and the amount of admission tax for which said corporation would be liable upon the amount of said capital as ascertained by the State Tax Commission from its inspection of the books, records, and papers of such corporation, and any such corporation which shall fail or refuse for the space of sixty days after the date that such demand is made by the State Tax Commission to pay such amount found by the State Tax Commission to be due by it in excess of the amount shown to be due by it in such statement, shall not be permitted to engage in business or do any act in its corporate capacity in this State at any time within five years from the date of such demand.

Section 311. **PAYMENT BUT ONCE—ADMISSION FEE.** The tax required by the second preceding section shall be paid but once, but such payment does not relieve any foreign corporation from the duty of complying with the requirements of existing laws and the payment of any other taxes required by law. All contracts made in this State by any foreign corporation which has not first complied with the provisions of the two preceding sections shall, at the option of the other party to the contract, be wholly void.

Section 312. Sections 7214, 7215, and 7216 of the Code of Alabama of 1923 are hereby specifically repealed.

Section 313. In any case in which the law requires that the par value of shares of stock of a corporation be stated in any certificate or paper or in any return for taxes where the taxes are based on the amount of capital stock, it shall be stated in respect of such shares that such shares are without par value and wherever the amount of stock authorized or issued is required to be stated, the number of shares authorized or issued shall be stated and it shall also be stated that such shares are without par value. For the purpose of taxes prescribed to be paid on the filing of any certificate or other paper relating to corporations or for permit fees and franchise taxes, at the time of filing the certificate of incorporation and upon the issue of any capital stock thereafter the incorporators shall file a sworn statement with the State Tax Commission and with the probate judge with whom such certificate is filed, showing what moneys, property or other things of value have been dedicated to capital account or represent capital stock and the value thereof, and such value shall be the amount of capital stock of such corporation for such purposes and shall remain the same until such amount shall be increased or decreased by direct corporate authority and notice thereof filed in the office of **the State Tax Commission and of the probate judge.** Where an increase or decrease of amount of capital stock is made, a certified copy of the minutes of the corporation showing what property representing capital stock has been added or retired and the value thereof shall be filed with the State Tax Commission, and probate judge. The property added, shall for the foregoing purposes be valued as of the time of such increase and the property retired shall be upon the basis of valuation previously fixed. If the State Tax Commission be of the opinion that the value of the property so shown as dedicated to capital stock or as representing capital stock or the increase or decrease thereof be incorrect it shall have the right to fix the value of such assets for such tax purposes. The State Tax Commission shall have full authority to examine the books of the corporation, appraise the assets and make such investigation as may be necessary to determine a proper value of such assets. From the action of the State Tax Commission the corporation may appeal to the Circuit Court Montgomery County in Equity as in other cases, and the amount finally fixed shall constitute the capital stock of such corporation until changed by corporate action.

Section 314. Every association, company or corporation, incorporated or organized under the laws of this State, or other state, territory or county or doing business in this State, or who has a subsidiary company, or a company doing business in this State, whose stock is owned wholly or partially by said corporation in this State, and whose stock owned by residents of Alabama

is liable to assessment and taxation, shall on or before the first day of February of each year make a true and correct report to the State Tax Commission, verified by its president, secretary, treasurer or other chief officer, giving the names and addresses of residents of Alabama who held its shares of stock and outstanding bonds as of October first previous thereto and on October 1st for the five years subsequent thereto, and the number of shares of stock and the amount of bonds so owned and the date such ownership was acquired, and also the transfer of any of its stocks or bonds by residents of Alabama to non-residents within thirty days previous to October first. The contents of the reports mentioned in this Section shall be kept confidential, and shall not be divulged except for the purpose of securing the assessment of same for taxation. Provided this Section shall not apply to domestic bank trust companies and domestic life insurance companies.

## ARTICLE IX.

### Chapter 2.

Section 315. CORPORATION PERMIT—FOREIGN.—Every foreign or non-resident corporation and all corporations organized under or by authority of the laws of any State or government other than the State of Alabama, in addition to other license and privilege taxes required to be paid by law, and for the purpose of registration and to prevent the duplication of names and in order to secure for the public record, for taxation, and for other purposes, the names and addresses of the said corporations and individual officers thereof, shall be required to procure from the State Tax Commission when it is admitted or authorized by law to do business, and annually thereafter, a permit, which permit shall be prepared by and countersigned by the State Comptroller, and shall be delivered by the State Comptroller to the State Tax Commission in a well bound book with the stub and blanks therein showing the date thereof, the names of the corporations when issued, and the character of business engaged in by said corporation. The issuance of such permit to any such corporation shall be prima facie evidence of its having complied with all the laws required of it before engaging in business in this State. For all such permits said corporation shall, upon admission and when authorized to do business as a corporation, and annually thereafter, on or before the first day of February of every year pay to the State Tax Commission a fee of Five Dollars (\$5.00) per annum or for a part of a year, if the capital employed in this State of such corporation is less than One Thousand Dollars; if capital employed is One Thousand Dollars, and not over ten thousand dollars, it shall pay the sum

of Ten Dollars (\$10.00) if the capital employed in this State is in excess of Ten Thousand but not in excess of Twenty-five thousand Dollars, a fee of twenty dollars (\$20.00) shall be paid; if the capital employed in this State is in excess of Twenty-five Thousand Dollars and not in excess of Fifty Thousand, the fee shall be Fifty Dollars (\$50.00); if the capital employed in the State is in excess of fifty thousand dollars the fee shall be one hundred dollars (\$100.00). The State Tax Commission shall keep a full and complete account of all moneys received by it for and on account of such permit, and shall pay the same into the State Treasury as all other moneys collected or received by him are paid into the State Treasury. No corporation, its agents, officers or servants shall transact any business for or in the name of such corporation within the State of Alabama without having first procured said permit and all contracts, engagements or undertakings or agreements with, by or to such corporations made without obtaining such permit shall be null and void. Application for said permit shall be made by said corporations as provided by law, giving the name and address of said corporation, its principal place of business where organized, its principal place of business in Alabama; its agent upon whom process can be served, his address and the names of the President and Secretary of said corporation, and the name and address of its directors residing in Alabama.

Section 316. CORPORATION PERMIT — DOMESTIC. Every domestic corporation organized under or by authority of the laws of the State of Alabama, in addition to other license and privilege taxes required to be paid by law, and for the purpose of registration and to prevent the duplication of names and in order to secure for the public record, for taxation, and for other purposes, the names and addresses of the said corporations and individual officers thereof, shall be required to procure from the State Tax Commission when it is authorized by law to do business, and annually thereafter, a permit, which permit shall be prepared by and countersigned by the State Comptroller, and shall be delivered by the State Comptroller to the State Tax Commission in a well bound book with the stub and blanks therein showing the date thereof, the names of the corporations and when issued, and the character of business engaged in by said corporation. The issuance of such permit to any such corporation shall be prima facie evidence of its having complied with all the laws required of it before engaging in business in this State. For all such permits said corporation shall, when authorized to do business as a corporation, and annually thereafter, on or before the first day of February of every year, pay to the State Tax Commission a fee of Ten Dollars (\$10.00) per annum, or for a part of a year, if the paid capital stock of such corporation is less than twenty-five thousand dollars; if more than

twenty-five thousand and not over fifty thousand dollars, it shall pay the sum of twenty dollars (\$20.00); if the paid capital stock is in excess of fifty thousand, but not in excess of one hundred thousand dollars, a fee of thirty dollars (\$30.00) shall be paid, if the paid capital stock is in excess of one hundred thousand dollars and not in excess of one hundred and fifty thousand, the fee shall be fifty dollars (\$50.00); if the paid capital stock is in excess of one hundred fifty thousand dollars, the fee shall be one hundred dollars (\$100.00). The State Tax Commission shall keep a full and complete account of all moneys received by it for and on account of such permit, and shall pay the same into the State Treasury as all other moneys collected or received by it are paid into the State Treasury. If any corporation fails or refuses to take out the permit herein provided for within thirty days after the first day of January such corporation shall be required to pay a penalty of Five Dollars (\$5.00) per day for each day's delinquency; provided, further, that, for good cause, the State Tax Commission may relieve any domestic corporation of all or any part of the penalty imposed herein. Application for said permit shall be made by said corporation as provided by law, giving the name and address of said corporation, its principal place of business where organized, its principal place of business in Alabama; its agent upon whom process can be served, his address, and the names of the President and Secretary of said corporation.

## ARTICLE IX.

### Chapter 3.

#### FRANCHISE TAX ON CORPORATIONS.

Section 317. AMOUNT OF LEVY — DOMESTIC CORPORATIONS. Every corporation organized under the laws of this State, except strictly benevolent, educational or religious corporations, shall pay annually to the State an annual franchise tax of two dollars on each one thousand dollars of its capital stock.

Section 318. AMOUNT OF LEVY FOREIGN CORPORATIONS. Every corporation organized under the laws of any other state, nation or territory and doing business in this State, except strictly benevolent, educational or religious corporations, shall pay annually to the State an annual franchise tax of two dollars on each one thousand dollars of the actual amount of capital employed in this State. In ascertaining the annual franchise tax which will be paid by any foreign corporation doing business in this State under this Section there shall be deducted from the amount of the capital employed by such corporation in this State



the aggregate amount of loans of money made by such corporation in this State and which shall be secured by existing mortgage or mortgages to it on real estate in this State and upon which mortgage or mortgages there shall have been paid the recording privilege tax provided by law. Provided, that if a corporation has qualified to do business in this State it shall for the purpose of franchise tax prima facie be held to be doing business in the State of Alabama within the meaning of this Act.

**Section 319. CORPORATIONS MERGED OR CONSOLIDATED.** If a corporation organized under the laws of any other State, nation, or territory shall have heretofore merged or consolidated, or shall hereafter merge or consolidate with a corporation organized under the laws of the State of Alabama, and if more than seventy-five (75) per cent of the capital employed by such merged or consolidated corporation is located outside of the State of Alabama, such merged or consolidated corporation shall, for the purposes of this Article be deemed, and held to be, a foreign corporation, and shall pay the franchise tax herein required to be paid by foreign corporations.

**Section 320. REMITTANCE OF TAX.** Remittance for the franchise tax required by the above sections shall be made to the State Tax Commission, at Montgomery, Alabama, with checks payable to the State Treasurer of Alabama. One-tenth of the franchise tax collected shall be apportioned by the State Tax Commission to the several counties in which the corporation does business, in proportion to the amount of taxable property of such corporation in each of said counties, and the State Comptroller shall draw his warrant payable to the County Treasurer of each county in such proportion, upon certificate of the State Tax Commission.

**Section 321. REPORT TO STATE TAX COMMISSION.** The president or any executive officer or the secretary, of every domestic corporation subject to the franchise tax under this Act shall make a written statement under oath to the State Tax Commission showing the following facts: (1) The date and place of incorporation and the total amount of subscribed stock with which it began business; (2) The total authorized capital stock of the corporation; (3) A brief statement of all property, real and personal, owned by the corporation in Alabama, giving the location and value of such property by counties; (4) The balance sheet of such corporation as shown after closing its books on December 31st preceding, or after closing its books at the end of its preceding fiscal year; (5) Such other detailed information as the State Tax Commission may deem necessary to insure the collection of the tax due. The president or any executive officer or the secretary, of every foreign corporation subject to the franchise tax under this

Act and/or qualified to do business in Alabama shall make a written statement under oath to the State Tax Commission showing the following facts: First. The date and place of incorporation, and the date such corporation qualified to do business in this State; Second. The total amount of its capital employed in this State. Third. A brief statement of all property, real and personal, owned by the corporation in Alabama, giving the location and value of such property by counties; Fourth. The amount of capital employed in this State which is secured by existing mortgages in real estate in this State, upon which mortgage there shall have been paid the recording privilege tax provided by law; Fifth. The balance sheet of such corporation as shown after closing its books on December 31st preceding, or after closing its books at the end of its preceding fiscal year; Sixth. Such other detailed information as the State Tax Commission may deem necessary to insure the collection of the tax due. The statement required by this Section shall be made on blanks prepared and furnished by the State Tax Commission on application of the corporation or otherwise, such blanks to be paid for out of the general appropriation for printing. Such written statements under oath to the State Tax Commission shall be made and filed with said State Tax Commission between the first day of January and the fifteenth day of March of the calendar year for the franchise tax to be paid for that calendar year.

Section 322. **PENALTY FOR FAILURE OF DOMESTIC CORPORATION TO MAKE REPORT REQUIRED IN NEXT PRECEDING SECTION.** Any corporation failing to make the report required by the next preceding section, or to furnish all the information demanded, on or before the fifteenth day of March of each year, shall be subject to a penalty of ten dollars (\$10.00) a day for each day's failure, unless the time for filing the report has been extended by the State Tax Commission, or unless the State Tax Commission shall for good and sufficient cause remit the penalty provided in this section. Any suit for collection of this penalty shall be brought in the name of the State in any court of competent jurisdiction in Montgomery County, Alabama.

Section 323. **ONE-HALF YEAR TAX.** If any domestic corporation is organized on or after the first day of July of any year, or if any foreign corporation qualifies to do business in the State of Alabama on or after the first day of July of any year, the amount of the franchise tax levied by this Act shall be, for the remainder of the calendar year in which said corporation is organized or qualified to do business, one-half of the year's tax. Such corporation shall make the same report to the State Tax Commission as is provided for corporations who make reports for the full year.

**Section 324. CALENDAR YEAR TAX.** The franchise tax of domestic and foreign corporations as authorized and levied by this Act shall run according to the calendar year and shall be due on the first day of April of each year for the tax of the current calendar year. Such corporation shall be allowed thirty days after the first day of April within which to pay said tax, but if delinquency continues after thirty days there shall be collected a penalty of one per cent for each month or part thereof that the tax shall remain unpaid after the beginning of the delinquent period. This penalty shall be in addition to the penalties hereinbefore prescribed for failure to make returns by March 15th. A foreign corporation, however, which has complied with provisions of this Act as to filing a sworn statement shall not be considered delinquent nor subject to the one per cent monthly penalty until after thirty days from the date of the assessment against it by the State Tax Commission. Provided that where a foreign corporation has failed to make the required report, the State Tax Commission shall be authorized to make an assessment against such corporation upon information, of which assessment such corporation, shall be given notice as is in this Act provided, or suit may be filed therefor in the name of the State against such corporation, either in law or equity. The State Tax Commission may for good cause remit the penalty provided by this Section.

**Section 325. BLANK FORMS AND NOTICES.** The reports to the State Tax Commission by any corporation, domestic or foreign, for the purpose of determining the amounts of franchise tax due by such corporation shall be made upon blanks to be furnished by the State Tax Commission, and it shall be the duty of said Commission to mail to the corporation on such blanks, provided that the mailing of such blanks to a domestic corporation shall be a notice to such corporation that the payment of the franchise tax provided by this Act is due to be paid on the first day of April, and will be delinquent after thirty days from such date. And the due date of payment and the time of delinquency shall be printed in a prominent space on the front page of the blank forms herein provided in "red letters". All blank forms for franchise tax reports shall be paid for out of the general appropriation for printing.

**Section 326. DISSOLUTION OF CORPORATIONS.** That whenever a corporation shall be dissolved in this State by an agreement of the stockholders filed in the office of the Probate Judge of the county wherein the corporation was organized, said Probate Judge shall at once give notice to the State Tax Commission and Secretary of State of such dissolution, with the name of the corporation, the amount of its capital stock, and the date of dissolution; and whenever a dissolution of a corporation organized under

the laws of this State shall take place by decree of a court, upon the filing of a bill under the laws of this State by the creditors or stockholders, the clerk of said Court shall at once notify the State Tax Commission and Secretary of State of such dissolution, giving the name of the corporation, the amount of its capital stock and the date of such decree of dissolution. In any cases where petitions are filed in any court by the creditors or stockholders for the dissolution of a corporation in case of insolvency thereof, the clerk of said Court shall give notice of said suit and the pendency thereof to the State Tax Commission in order that the State Tax Commission may file a petition in the cause in the Court for the purpose of collecting any unpaid franchise tax owing by said corporation. The failure of any probate judge or clerk of a court to make the report required by this Section within thirty days from the date of dissolution or filing of such suit shall subject such probate judge or clerk to a penalty of one dollar a day for each day's failure to make said report after the expiration of thirty days from said date of such dissolution or of filing of such suits.

**Section 327. ASSESS TAX AGAINST FOREIGN CORPORATIONS.** The State Tax Commission shall as soon as possible after the required report has been filed with it by a foreign corporation ascertain and assess the amount of franchise tax due by such corporation. The State Tax Commission shall give notice by registered mail, return receipt demanded, to the corporation, giving notice of the assessment as fixed by the State Tax Commission, stating that on a day specified, not less than ten days from the date of the service of such notice, the State Tax Commission will meet and determine any complaint against such assessment. Upon hearing such complaint or protest or if there has been no complaint or protest filed on or before the date specified in such notice for the determination of the matter, the State Tax Commission shall proceed to determine and fix the assessment for franchise tax. The corporation shall without delay, be given notice of such assessment as finally fixed. The assessment shall have the full force and effect of a judgment on which an execution may be issued by the State Tax Commission directed to any sheriff in the State of Alabama unless the corporation appeals from such assessment as allowed by this Act.

**Section 328. SUMMONS WITNESSES.** The State Tax Commission may summon before it any officer or employee of the corporation, or any other witness, swear and examine them with respect to any fact showing the amount of franchise tax due by such corporation, and the State Tax Commission or its representatives shall be allowed to examine any books, papers or documents of the corporation and if any corporation shall refuse to allow such examination to be made at its main office or principal place of

business in Alabama, the State Tax Commission may require the production before it at the courthouse in the County in Alabama where the corporation has its main office or principal place of business of any books, papers or documents. The summons of witnesses to appear before it or the notice to corporations to produce books, papers or documents before it may be issued in the name of the State Tax Commission, signed by the secretary of said Commission, such summons or notice shall be directed to any sheriff of the State of Alabama and must be served by any sheriff to whom such summons or notice is delivered by the State Tax Commission, for service. The State Tax Commission, any member thereof, or any authorized agent of said Commission, is given full authority to inspect or examine, during business hours, at the office of the corporation in this State where its books are kept, or, if said books are kept outside of the State, then at the office outside of the State, where such books are kept by the Corporation, all books, papers or documents of said corporation. Any person who wilfully fails to appear before the Commission after being summoned as a witness or having appeared refuses to testify as to any material matters required of him by this Commission, or any corporation or any agent thereof who refuses to produce before the Commission after notice given him, any books, papers or documents required to be produced, or any corporation or agent thereof in custody of the books, papers or documents of the corporation who refuses to allow said State Tax Commission, any member thereof, or any authorized agent of said Commission, to inspect or examine said books, papers or documents at the office of said corporation during business hours, shall be guilty of contempt and upon a certificate of the facts to a circuit judge of the county where the corporation has its principal office or where its books are kept, it shall be the duty of such circuit judge to adjudge such corporation and/or agent in contempt and shall subject such corporation to a fine of not exceeding fifty dollars (\$50.00) and shall also subject such officer or agent to a fine of not exceeding fifty dollars (\$50.00) and imprisonment in the county jail for a period not exceeding five days. Provided, that each said refusal to appear, or upon appearance refusal to testify, or each said refusal to produce any books, papers or documents required or each said refusal to allow the examination of such books, records or documents either or all shall constitute a separate offense.

**Section 329. DOES NOT EFFECT PRIVILEGE LICENSE TAX.** The payment of the franchise tax required by this Act shall not exempt any corporation paying same from the payment of any regular license or privilege tax required by law for the engaging in or carrying on any business for which a license or privilege tax is required of individuals, firms or corporations.

Section 330. REPORT ON ORGANIZATION. Each domestic corporation immediately on its organization shall make and file with the State Tax Commission the statement required by this Act. Every Probate Judge of the State shall be supplied by the State Tax Commission with blanks for making such reports, to be used by the newly organized corporation in making the required report. A failure to make the required report and file the same with the State Tax Commission within ten days after the date of organization shall subject the corporation to a penalty of Ten Dollars (\$10.00) a day for each day's failure, unless the time for filing the report has been extended by the State Tax Commission, which penalty shall be included and collected as a part of the Tax. Such domestic corporation shall pay the tax herein required within thirty days after organization. Failure to pay said tax within such time shall subject the corporation to a penalty of one per cent per month for each month or any part thereof in which it is delinquent in the payment of said tax. Provided the State Tax Commission may for good cause remit the penalties herein provided.

Section 331. FOREIGN CORPORATIONS REPORT WHEN QUALIFIED. Each foreign corporation immediately after qualifying to do business in Alabama shall make and file with the State Tax Commission the statement required by this Act. The Secretary of State shall be supplied by the State Tax Commission with blanks for making such reports, to be used by the newly qualified corporation in making the required report. A failure to make the required report and file same with the State Tax Commission within ten days after such corporation qualifies to do business in Alabama, shall subject the corporation and its designated agent in Alabama to a penalty of Ten Dollars (\$10.00) a day for each day's failure, unless the time for filing the report has been extended by the State Tax Commission. Which penalty shall be assessed and collected as a part of the tax. Such corporation shall have thirty days after assessment by the State Tax Commission in the manner hereinbefore provided for, in which to pay said tax. The delinquent foreign corporation under this Section, after filing the required report shall be allowed to appeal from the final assessment of the State Tax Commission in the same manner as non-delinquent foreign corporations. Provided, the State Tax Commission may for good cause remit the penalty herein provided.

Section 332. MONEY COLLECTED PAID INTO TREASURY. The payment of the franchise tax provided herein shall be made to the State Tax Commission of Alabama, at Montgomery, Alabama, with checks made payable to the State Treasurer of Alabama, and the State Tax Commission shall without delay, cover

into the State Treasury taking a receipt therefor, all money received by it in payment of franchise taxes.

Section 333. RECEIVERSHIP OR TRUSTEE. Whenever a corporation, either domestic or foreign is in receivership or trusteeship, the provisions of this Chapter shall apply to receiver or trustee thereof, and such receiver or trustee shall be liable for franchise taxes to the same extent as the corporation would be if there were no receivership or trusteeship. Such receiver or trustee shall make all reports herein required and shall be subject to all penalties as would be the corporation.

Section 334. APPEAL. Either the State or foreign corporation may appeal from the final assessment made by the State Tax Commission to the Circuit Court of Montgomery County, sitting in Equity, in the manner provided by this Act for appeals made from assessments of the State Tax Commission.

Section 335. The first franchise tax to be collected under this Act shall be for the calendar year commencing January 1, 1936.

Section 336. Franchise tax returns, reports and/or records shall remain in the office of the State Tax Commission and shall not be open to public inspection, nor shall a copy of any part of such returns, reports and/or records be given out except upon specific authority of the State Tax Commission.

## ARTICLE X.

### SECURITIES TAX

Section 337. The word "Securities" when used in this Act shall mean and include capital stock, stock certificates, voting trust certificates, bonds, notes, debentures or similar evidences of indebtedness of any foreign corporation, and bonds, warrants, notes, debentures or other evidences of indebtedness of any state or of any government or governmental subdivision other than the State of Alabama, or some political subdivision thereof. The word "owner" as herein used, shall include as well, brokers and parties holding or claiming title to any securities in fiduciary capacity.

Section 338. Any owner of any securities enumerated in the preceding section may, as of the first day of October, 1935, and thereafter as to securities subsequently acquired from time to time as of the first day of October next, following the date of acquisition, annually record the fact of his ownership thereof in the office of the State Tax Commission of Alabama by filing for record in said office a list of these securities held by such owner, stating the name and address of such owner, duly verified by affidavit stating the fact of such holding and sworn to by such owner. Any such

list shall state the names of the corporations or government which issued the respective securities listed, shall describe the nature of each security listed, shall state the number and amount of each class of securities described and shall identify the same by the serial number appearing thereon. Such record of ownership may be made for any owner by any broker, agent or representative without listing or disclosing the name of the beneficial owner of any securities.

Section 339. The State Tax Commission of Alabama shall procure large and well bound books in which must be recorded in a fair hand or in typewriting, word for word, any such list of securities duly verified as aforesaid and at the foot of the margin of such record of each such list, the day of the month and year of the delivery of the same for record, must be specified. Said books shall be alphabetically indexed both as to the names of the owners or the parties filing such list and the names and serial number of the securities covered by such recorded lists. The State Tax Commission, upon making the record of any such list of securities, shall certify on the same when it was received and recorded and in what book and page the same is recorded, and shall deliver the original of such list so certified to the party entitled thereto, or his order, on the payment of the fees for recording the same, but the secretary may refuse to endorse "filed" on any such list of securities or to record the same until his fees for the recording thereof are paid, and shall make such rules and regulations as it deems necessary to carry out the provisions of this Act.

Section 340. For the services in filing and recording any such list, there shall be paid to the State Tax Commission a fee of fifty cents for each such list so filed and recorded in its office, and in addition thereto, a recording fee of ten cents per hundred words contained in each such list so filed for record in his office.

Section 341. Any such list shall be operative as a record from the day of the delivery thereof to the State Tax Commission and anyone delivering any such list for record may require a receipt for the same, describing it by date and the name of the party verifying the same.

Section 342. The State Tax Commission shall permit all persons to have free access to the record books of such lists of securities in its office under such rules and regulations as it may prescribe, and furnish transcript therefrom with certificates, when required, upon payment of a fee of fifty cents for each such transcript and certificate, and in addition thereto, a fee of ten cents per hundred words contained in the transcript of any list so transcribed and certified.

Section 343. The recording in the office of the State Tax Commission of any such list of securities shall operate as a notice of



the contents of such list of securities and the claim of ownership of the securities therein listed from the day of the filing of the same for record to all persons and parties in the State of Alabama whomsoever, except only purchasers and pledges for value in the ordinary course of business, until such time as such ownership may cease by legal transfer and delivery to some other party by the owner or on whose account such list has been filed for record.

Section 344. (a) No list of securities shall be received for record by the State Tax Commission unless and until the following privilege or license tax shall have been paid to the State Tax Commission upon such list of securities, before the same shall be offered for record, to-wit: Upon all such securities listed with the State Tax Commission, the par value or principal amount of which does not exceed One Hundred Dollars (\$100.00), the sum of Twenty-five cents (25c) and upon all such securities the par value or principal sum of which is more than One Hundred Dollars (\$100.00), the sum of Twenty-five cents (25c) for each One Hundred Dollars (\$100.00) of value or fraction thereof as shown in said list. For the purpose of this Act, shares of stock having no nominal or par value, included in any such list of securities, shall be taken in the determination of said tax as equal to One Hundred Dollars (\$100.00) par value per share, unless the actual value thereof be otherwise shown affirmatively on the list thereof to the satisfaction of the State Tax Commission, in which event the sum to be paid shall be twenty-five cents for each One Hundred Dollars (\$100.00) of the value thereof so shown provided a list of all securities may be filed and recorded annually and the tax paid as above provided for each year. (b) Upon the filing for record in the office of the State Tax Commissioner of any such list of securities, the owner of the securities listed therein or his agent, shall present said list to the State Tax Commission and pay to the State Tax Commission the amount of tax required under this Section to be paid on account thereof, and upon such payment the State Tax Commission, or any member thereof or any of its assistants, shall certify on said list of securities the fact that the tax has been paid. (c) The tax collected by the State Tax Commission under this Act, shall be paid by the State Tax Commission to the State Treasurer. (d) There shall be no ad valorem tax assessed or collected upon any security included in any list on account of which the tax prescribed by this Act shall have been paid either State, County or Municipal, for the year in which listed, provided however, that if said securities are not listed for any tax year and the privilege or license tax paid as herein provided, the same shall be considered as escape personal property and subject to the advalorem taxes, laws and penalties relating to personal property which has escaped taxation, and the Tax Assessor of

the county wherein the owner of such securities resides, or the State Deputy Tax Assessor shall assess the same as escaped personal property is assessed, and notify the State Tax Commission that such assessment has been made and for what years the same has been made, and the State Tax Commission shall not thereafter accept the same for listing for the years for which it has been so assessed for taxation. (e) The owner shall not be required to list any security or securities exchanged or issued to replace, or in lieu thereof, any securities owned and listed by the owner in the same corporation or in a merger or consolidation of the corporation in which said securities are held, for the tax year in which exchanged or replaced.

## ARTICLE XI.

### SECTION 345.

#### INCOME TAX.

Section 345.1. INCOME TAX. In addition to all other taxes now imposed by law there is hereby levied and imposed a tax on the entire net income as defined in this Article, which tax shall be assessed, collected and paid annually at the rate specified herein, upon the net taxable income for each calendar year as hereinafter provided. (a) Persons and subjects taxable under this article are: (1) Every individual residing in Alabama; (2) Every corporation domiciled in Alabama or licensed and/or qualified to transact business in Alabama; (3) Every corporation doing business in Alabama or deriving income from sources within Alabama, including income from property located in Alabama; (4) Every resident individual or corporation acting in a fiduciary capacity; (5) Every estate and trust resident in the State of Alabama; (6) Every non-resident individual receiving taxable income from property owned or business transacted in Alabama: (b) Every natural person domiciled in the State of Alabama, and every other natural person who maintains a permanent place of abode within the State or spends in the aggregate more than seven months of the income year within the State, shall be presumed to be residing within the State for the purposes of determining liability for income taxes under this Article. (c) The first tax to be assessed, collected and paid, under this Article shall be in the year 1936, upon and with respect to the taxable income for the taxable year 1935, or any fiscal year ending in 1935 and thereafter for each succeeding year. Provided that the tax on the income received in such fiscal year prior to January 1, 1935, shall be computed at the rates and in the same manner heretofore in effect, and on that part of the in-

come received after January 1, 1935, the tax shall be computed on the rates and in the manner herein provided.

**Section 345.2. DEFINITIONS.** For the purpose of this Article and unless otherwise required by the context, the term "person" and/or "taxpayer" includes any person, trust, estate, private corporations, associations and individuals subject to a tax imposed by this Article, or whose income is in whole or in part subject to a tax imposed by this Article. (a) The term "corporation" includes associations, joint stock companies. (b) The term "domestic" when applied to a corporation means created or organized under the laws of the State of Alabama. (c) The term "foreign" when applied to a corporation means created or organized outside of the State of Alabama. (d) The term "Revenue Act of 1928" means the United State Revenue Act of 1928, approved May 29, 1928. (e) The term "cash" means any legal tender, negotiable paper or solvent credit. (f) The term "taxable year" means the calendar year or the fiscal year ending during such calendar year upon the basis of which net income is computed. (g) The term "fiscal year" means an accounting period of twelve months ending on the last day of any month other than December. (h) The term "taxpayer" means any person or corporation whose income is subject to the payment of income tax under the provisions of this Article. The first taxable year to be called the taxable year 1935, shall be the calendar year 1935, or any fiscal year ending during the calendar year 1935. (i) The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator or any person acting in any fiduciary capacity for any person, trust or estate. (j) The words "report from source" includes all individuals, corporations, associations and partnerships, in whatever capacity acting, including lessees or mortgagors, of real or personal property, fiduciaries, employers, and all other officers and employees of the State or of any municipal corporation or political subdivision of the State having control, receipt, custody or payment of interest, rent, salaries, wages, premiums, annuities, compensation, remunerations, emoluments or other fixed or determinable annual or periodical gains, profits, and income taxable under this Article. (k) The term "paid" for the purpose of deductions and credits hereinafter provided for with respect to income tax means paid or accrued or paid or incurred, and the term "paid or incurred" and "paid or accrued", shall be construed according to the method of accounting on the basis on which the net income is computed under this Article. (l) The term "dividends" as used in this Article shall be held to mean all dividends from stocks whether paid in cash or property of the corporation. (m) The term "stock dividends" means new stock issued for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

Section 345.3. TAX ON INDIVIDUALS. The tax herein levied and imposed upon every resident of this State, which tax is in addition to all other taxes imposed by this Act, and which tax shall be assessed, collected and paid annually upon and with respect to his entire net taxable income as herein defined and shall be computed at rates as follows: (a) On the excess over the amount exempted herein, up to and including one thousand dollars (\$1,000.00), one and one-half (1-1/2%). (b) On the excess over the amount exempted herein above, one thousand dollars (\$1,000.00), up to and including three thousand dollars (\$3,000.00), three per cent (3%). (c) On the excess over the amount exempted herein above three thousand dollars (\$3,000.00) up to and including five thousand dollars (\$5,000.00) four and one-half per cent (4-1/2%). (d) On the excess over the amount exempted herein above five thousand dollars (\$5,000.00), five per cent (5%). A like tax is hereby levied and imposed, and shall be assessed, collected and paid annually at the rates specified in this Section, upon and with respect to the entire net income as herein defined, except as hereinafter provided, From all property owned, and from every business, trade, profession, or occupation carried on in this State by natural persons not residents of this State. The tax levied and imposed in this section shall first be assessed, collected and paid in the year 1936 upon and with respect to the taxable income for the calendar year 1935, or for any fiscal year ending during the year 1935, and in each year thereafter such tax shall be assessed likewise based upon the preceding calendar year or any fiscal year ending during such preceding calendar year. Every natural person domiciled in the State of Alabama, and every other natural person who maintains a permanent place of abode within the State or spends in the aggregate more than seven months of the income year within the State, shall be presumed to be residing within the State for the purpose of determining liability for income taxes.

Section 345.4. ADJUSTED BASIS FOR DETERMINING GAIN OR LOSS. (A) BASIS (UNADJUSTED) OF PROPERTY. The basis of property shall be the cost of such property; except that (1) INVENTORY VALUE. If the property should have been included in the last inventory, the basis shall be the last inventory value thereof. (2) GIFT OR TRANSFER IN TRUST. If the property was acquired by gift or transfer in trust, the basis shall be the fair and reasonable market value of such property at the time of such acquisition, or if acquired prior to December 31, 1932, the basis shall be the fair and reasonable market value as of that date. (3) PROPERTY TRANSMITTED AT DEATH. If personal property was acquired by specific bequest or if real property was acquired by general or specific devise or by intestacy, the basis shall be the fair and reasonable market value of the property at the time of the death of the decedent. If the property was ac-

quired by the decedent's estate from the decedent, the basis in the hands of the estate shall be the fair and reasonable market value of the property at the time of the death of the decedent. In all other cases if the property was acquired either by will or by intestacy, the basis shall be the fair and reasonable market value of the property at the time of the distribution to the taxpayer. (4) If the property was acquired upon an exchange described in Section 345.6 (b) to (e), inclusive, the basis shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain, or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by Section 345.6 to be received without the recognition of gain or loss, and in part of other property, the basis provided in this paragraph shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair and reasonable market value at the date of the exchange. This paragraph shall **not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration in whole or in part for the transfer of the property to it.** (5) **TRANSFERS TO CORPORATION WHERE CONTROL OF PROPERTY REMAINS IN SAME PERSON.** If the property was acquired after December 31, 1932, by a corporation in connection with a reorganization, and immediately after the transfer and interest or control in such property of fifty per centum or more remained in the same persons or any of them, then the basis shall be the same as it would be in the hands of the transferor, increased by the amount of gain or decreased by the amount of loss recognized to the transferor upon such transfer under the law applicable to the year in which the transfer was made. This paragraph shall not apply if the property acquired consists of stock or securities in a corporation a party to the reorganization, unless acquired by the issuance of stock or securities of the transferees as the consideration in whole or in part for the transfer. (6) **PROPERTY ACQUIRED BY ISSUANCE OF STOCK OR AS PAID IN SURPLUS.** If the property was acquired after December 31, 1932, by a corporation (1) By the issuance of its stock or securities in connection with a transaction described in Section 345.6 (b) (5) (including, also cases where part of the consideration for the transfer of such property to the corporation was property or money, in addition to such stock or securities), or (2) As paid in surplus or as a contribution to capital, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain or decreased in the amount of loss recognized to the trans-

feror upon such transfer under the law applicable to the year in which the transfer was made. (7) **TAX-FREE DISTRIBUTION.** If the property consists of stock or securities distributed after December 31, 1934, to a taxpayer in connection with a transaction described in Section 345.6 (G), the basis in the case of the stock in respect of which the distribution was made shall be apportioned, under rules and regulations prescribed by the State Tax Commission between such stock and the stock or securities distributed. (8) **INVOLUNTARY CONVERSION.** If the property was acquired as the result of a compulsory or involuntary conversion described in Section 345.6 (f), the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made), determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made. (9) **PROPERTY ACQUIRED BEFORE JANUARY 1, 1933.** The basis for determining gain or loss on the sale or disposition of property acquired prior to January 1, 1933, shall be the fair and reasonable market value as of January 1, 1933. In determining the fair and reasonable market value of stock in a corporation as of January 1, 1933, due regard shall be given to the fair and reasonable market value of the assets of the corporation as of that date. (10) Whenever in the calculation of income taxable hereunder for any taxable year, it is necessary to determine the amount of gain or loss or of depreciation or depletion in the case of property acquired before January 1, 1933, the basis of property shall be fixed in the same manner as is provided in subsection (9) of this subsection (a). (b) **ADJUSTED BASIS.** The adjusted basis for determining the gain or loss from the sale or other disposition of property, whenever acquired, shall be the basis determined under subsection (a), adjusted as hereinafter provided. (b-1) **GENERAL RULE.** Proper adjustment in respect of the property shall in all cases be made (a) For expenditures, receipts, losses or other items, properly chargeable to capital account, including taxes and other carrying charges on unimproved and unproductive real property, but no such adjustment shall be made for taxes or other carrying charges for which deductions have been taken by the taxpayer in determining net income for the taxable year or prior taxable year: (b) In respect of any period since January 1, 1935, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent allowed (but not less than the amount allowable) under this Article of prior income tax laws. (c) In respect of any taxable period prior to January 1, 1935, for exhaustion, wear and tear, obsolescence, amortization and deple-

tion, to the extent allowable; (d) In the case of stock to the extent not provided for in the foregoing sub-paragraphs) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax free or were applicable in reduction of basis: (b-2) **SUBSTITUTED BASIS.** The term "substituted basis" as used in this subsection means a basis determined under any provisions of subsection (a) of this Section. (1) By reference to the basis in the hands of a transferor, donor, or grantor, or (2) by reference to other property held at any time by the person for whom the basis is to be determined. Whenever it appears that the basis of property of the taxpayer is a substituted basis, then the adjustments provided in the first paragraph of this subsection (b) shall be made after the first making in respect of such substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferor, donor or grantor, or during which the other property was held by the person for whom the basis is to be determined. A similar rule shall be applied in case of a series of substituted basis.

**Section 345.5. DETERMINATION OF AMOUNT OF GAIN OR LOSS.** (a) **COMPUTATION OF GAIN OR LOSS.** Except as hereinafter provided in this Section, the gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the adjusted basis provided in Section 345.4 (b), and the loss shall be the excess of such basis over the amount realized. (b) **AMOUNT REALIZED.** The amount realized from the sale or other disposition of property shall be the sum of any money received plus the fair and reasonable market value of the property (other than money) received. (c) **RECOGNITION OF GAIN OR LOSS.** In the case of a sale or exchange, the extent to which the gain or loss is determined under this Section shall be recognized for the purposes of this title, shall be determined under the provisions of Section 345.6. (d) **INSTALLMENT SALES.** Nothing in this section shall be construed to prevent (in the case of property sold under contract providing for payment in installments) the taxation of that portion of any installment payment representing gain or profit in the year in which such payment is received.

**Section 345.6. RECOGNITION OF GAIN OR LOSS.** (a) **GENERAL RULE.** Upon the sale or exchange of property the entire amount of the gain or loss; determined under Section 345.5 shall be recognized, except as hereinafter provided in this Section. (b) **EXCHANGE SOLELY IN KIND.** (1) Property held for productive use or investment. No gain or loss shall be recognized if property held for productive use in trade or business or for investment (not including stock in trade or other property held primarily for sale, nor stocks, bonds, notes, choses in action, certifi-

cates of trust or beneficial interest, or other securities or evidences of indebtedness or interest) is exchanged solely for property of a like kind to be held either for productive use in trade or business or for investment. (2) STOCK FOR STOCK OF SAME CORPORATION. No gain or loss shall be recognized if common stock in a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation. (3) STOCK FOR STOCK ON REORGANIZATION. No gain or loss shall be recognized if stock or securities in a corporation a party to a reorganization are, in pursuance of the plan of reorganization, exchanged solely for stock or securities in such corporation or in another corporation a party to the reorganization. (4) SAME—GAIN OF CORPORATION. No gain or loss shall be recognized if a corporation a party to a reorganization exchanges property, in pursuance of the plan of reorganization, solely for stock securities in another corporation a party to the reorganization. (5) TRANSFER TO CORPORATION CONTROLLED BY TRANSFEROR. No gain or loss shall be recognized if property is transferred to a corporation by one or more persons solely in exchange for stock or securities in such corporation, and immediately after the exchange such person or persons are in control of the corporation, but in the case of an exchange, by two or more persons this paragraph shall apply only in the amount of the stock and securities received by each is substantially in proportion to his interest in the property prior to the exchange. (c) GAIN FROM EXCHANGE NOT SOLELY IN KIND. (1) If an exchange would be within the provisions of subsection (b)(1), (2), (3), or (5) of this Section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property. (2) If a distribution made in pursuance of a plan or reorganization is within the provisions of paragraph (1) of this subsection, but has the effect of the distribution of a taxable dividend, then there shall be taxed as a dividend to each distributee such an amount of the gain recognized under paragraph (1) as is not in excess of his ratable share of the undistributed earnings and profits of the corporation accumulated after January 1, 1934. The remainder, if any, of the gain recognized under paragraph (1) shall be taxed as a gain from the exchange of property. (d) SAME—GAIN OF CORPORATION. If an exchange would be within the provisions of subsection (b) (4) of this Section if it were not for the fact that the property received in exchange consists not only of stock or securities permitted by such paragraph to be received without the rec-



ognition of gain, but also of other property or money, then— (1) If the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but (2) If the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized, but in an amount not in excess of the sum of such money and the fair and reasonable market value of such other property so received, which is not so distributed. (e) **LOSS FROM EXCHANGE NOT SOLELY IN KIND.** If an exchange would be within the provisions of subsection (b) to (5), inclusive, of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain or loss, but also of other property or money then no loss from the exchange shall be recognized. (f) **INVOLUNTARY CONVERSION.** If property (as a result of its destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat of imminence thereof) is compulsory or involuntarily converted into property similar or related in service or use to the property so converted, or into money which is forthwith in good faith, under regulations prescribed by the State Tax Commission expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund no gain or loss shall be recognized. If any part of the money is not so expended, the gain, if any, shall be recognized, but in an amount not in excess of the money which is not so expended. (g) **DISTRIBUTION OF STOCK ON REORGANIZATION.** If there is distributed, in pursuance of a plan of reorganization, to a shareholder in a corporation a party to the reorganization, stock or securities in such corporation or in another corporation a party to the reorganization, without the surrender by such shareholder of stock or securities in such a corporation, no gain to the distributee from the receipt of such stock or securities shall be recognized. (h) **SAME—EFFECT ON FUTURE DISTRIBUTION.** The distribution, in pursuance of a plan or reorganization, by or on behalf of a corporation a party to the reorganization of its stock or securities in a corporation a party to the reorganization, if no gain to the distributee from the receipt of such stock or securities was recognized by law, shall not be considered a distribution of earnings or profits within the meaning of Section (4) (b) for the purpose of determining the taxability of subsequent distributions by the corporation. (i) **DEFINITION OF REORGANIZATION.** As used in this Section and Sections 345.4 and 345.5. (1) The term “reorganization” means (a) a

merger or consolidation (including the acquisition by one corporation of at least a majority of the voting stock, or substantially all the properties of another corporation) or (b) a transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor or its stockholders or both are in control of the corporation to which the assets are transferred, or (c) a recapitulation, or (d) a mere change in identity, form or place of organization, however, effected. (2) The term "a party to a reorganization" includes a corporation resulting from a reorganization and includes both corporations in the case of an acquisition by one corporation of at least a majority of the voting stock of another corporation. (j) **DEFINITION OF CONTROL.** As used in this Section the term "control" means the ownership of at least fifty-one per centum of the voting stock and at least eighty per centum of the total number of shares of all other classes of stock of the corporation.

**Section 345.7. INVENTORY.** Whenever in the opinion of the State Tax Commission the use of inventories is necessary in order clearly to determine the income of any taxpayer, the inventory shall be taken by such taxpayer upon such basis as the State Tax Commission may prescribe, conforming as nearly as may be to the best accounting practice in the trade or business, and most clearly reflecting the income, and conforming as far as may be to the form and method prescribed by the United States Commissioner of Internal Revenue, under the Act of Congress known as the "Revenue Act of 1928," and any additional regulations presented thereto.

**Section 345.8. NET INCOME DEFINED (INDIVIDUAL.)** In the case of an individual, the term "net income" means the gross income as defined by Section 345.10 of the Article, less the deductions allowed by Section 345.11 of this Article.

**Section 345.9. COMPUTATION OF NET INCOME.** (a) Net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer, but if no such method of accounting has been so employed or if the method employed does not clearly reflect the income, computation shall be made upon such basis and in such manner as in the opinion of the State Tax Commission does clearly reflect the income. If the taxpayer's annual accounting period is other than the fiscal year as defined in this Article, or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year. (b) If a taxpayer changes his accounting period from fiscal year to calendar year, from calendar year to fiscal year, or from one fiscal year to another, the net income shall, with the approval of the State Tax Commission,

be computed upon the basis of the new accounting period, subject to the provisions of Section 345.23 of this Article.

**Section 345.10. GROSS INCOME DEFINED. (INDIVIDUAL.)** The term "gross income" as used herein: (1) Includes gains, profits and income derived from salaries, wages and/or compensation for personal services of whatever kind, or in whatever form paid, including the salaries, income, fees and/or other compensation of State, county and municipal officers and employees, or from professions, vocations, trades, business, commerce or sales, or dealings in property whether real or personal, growing out of ownership or use of or interest in such property; also from interest, royalties, rents, dividends, securities or transactions of any business carried on for gain or profit and the income derived from any source whatever, including any income not exempted under this Article and against which income there is no provision for a tax. The amount of all such items shall be included in the gross income for the taxable year in which received by the taxpayer unless under the methods of accounting permitted in this Article any such amounts are to be properly accounted for as of a different period; but (2) Does not include the following items which shall be exempt from income tax under this Article; (a) Amounts received under life insurance policies and contracts paid by reason of the death of the insured. (b) Amounts received (other than amounts paid by reason of the death of the insured) under life insurance endowment or annuity contracts, either during the term or at maturity or upon surrender of contracts, equal to the total amount of premiums paid thereon. (c) The value of property acquired by gift, bequest, demise or descent, (but the income from such property shall be included in the gross income). (d) Interest upon obligations of the United States or its possessions; or securities issued under provisions of the Federal Farm Loan Act of July 18, 1916; or bonds issued by the War Finance Corporation. (e) Any amount received through accident or health insurance, or under any workman's Compensation Act as compensation for personal injuries or sickness, plus the amount of any damages received, whether by suit or agreement on account of such injuries or sickness, or through the War Risk Insurance Act, or any law for the benefit or relief of injured or disabled members of the "Military or Naval Forces of the United States." (f) Salaries, wages and other compensation received from the United States by officers or employees thereof, including persons in the military or naval forces of the United States. (g) Interest on obligations of the State of Alabama and any county, municipality or other political subdivision thereof. (3) The term "gross income" shall mean and include all of such income arising from sources within and without the State whether paid to residents or non-residents, including interest on bonds, notes or other interest-

bearing obligations of residents, corporate or otherwise, and all amounts received (although paid under a contract for the sale of goods or otherwise) representing profits in the manufacture and disposition of goods within or without the State of Alabama. It shall also mean and include interest, dividends except stock dividends as defined herein, or other forms of income from and gains of profits realized upon the sale, exchange or other disposition of all forms of intangible personal property owned by or held anywhere in or without the State of Alabama for the account of any resident or domestic corporation.

Section 345.11. DEDUCTIONS. (INDIVIDUALS). In computing net income, there shall be allowed as deductions: (a) All ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and including rentals and other payments required to be made as a condition of the continued use or possession for the purpose of trade or business of property to which the taxpayer has not taken, or is not taking title or in which he has no equity. (b) All interest paid or accrued within the taxable year on indebtedness, but in the case of a non-resident or a foreign corporation, the proportion of such interest which the amount of gross income from sources within the State of Alabama bears to the amount of gross income from all sources within and without the State of Alabama. (c) Taxes paid or accrued within the taxable year imposed: (1) by authority of the United States; (2) by the authority of any of the possessions of the United States; (3) by the authority of any states or territory, except income tax, including the State of Alabama, or of any county, school district, municipality or other taxing sub-division of the State of Alabama, except the income tax herein levied; Provided, however, that the amount of Federal income tax apportioned to Alabama may be determined by the ratio that the amount of net income on business done within Alabama bears to the amount of net income from business within and without the State of Alabama. (d) Losses sustained during the taxable year and not compensated for by insurance or otherwise if incurred in trade or business. (e) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in any transaction entered into for profit, though not connected with the trade or business; but in the case of a taxpayer other than a resident of the State, only as to such transactions within the State. (f) Losses sustained during the taxable year of property not connected with the trade or business (but in the case of a taxpayer other than a resident of the State, only of property within the State), if arising from fires, storms, shipwrecks or other casualty, or from theft, and not compensated for by insurance or otherwise.

(g) Losses from debts ascertained to be worthless and charged off during the taxable year of such ascertainment, if sustained in the conduct of the regular trade or business of the taxpayer during the period covered by an Alabama Income Tax Law. (h) A reasonable allowance for the exhaustion, wear and tear of property from which any income is derived including a reasonable allowance for obsolescence. (i) In the case of mines, oil and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar condition in each case based upon the cost, including the cost of development not otherwise deducted; such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the State Tax Commission. In the case of leasehold interests, the deductions allowed by this Section shall be equitably proportioned between the lessor and the lessee. (j) Contributions or gifts made within the taxable year to recognized religious, charitable and scientific or educational institutions or institutions for the prevention of cruelty to children, or animals which are not operated for profit and no part of the net earning of which inures to the benefit of any private stockholder or individual or contributions to the special fund for vocational rehabilitation authorized by Section 7 of the United States vocational rehabilitation Act, the amount of such deduction not to be, however, in excess of 15% of the taxpayer's net income as computed without the benefit of this paragraph. Such contributions or gifts shall be allowable as deductions only where made to institutions recognized as institutions for the above purposes under rules and regulations prescribed by the State Tax Commission. In the case of a non-resident individual, this deduction shall be allowed only as to contributions or gifts made to domestic corporations or institutions within the State of Alabama or to such vocation rehabilitation fund, and as to such contributions to the vocational rehabilitation fund only in the proportion of the total of such contributions which the amount of gross income from all sources within the State of Alabama bears to the amount of gross income from all sources within and without the State of Alabama. (k) In the case of a non-resident individual or foreign corporation, the deductions allowed in paragraphs a, d, f, g, h and i shall be allowed only if and to the extent that they are connected with income arising from a source within the State of Alabama, and a proper apportionment or allocation of the deductions with respect to sources of income within and without the State of Alabama shall be determined under rules and regulations prescribed by the State Tax Commission.

Section 345.12. BASIS FOR DEPRECIATION AND DEPLETION. (a) BASIS FOR DEPRECIATION. The basis upon which exhaustion, wear, and tear depreciation and obsolescence are to be allowed shall be such reasonable allowance as

may be determined by the State Tax Commission on the adjusted basis provided in Section 345.4 for the purpose of determining the gain or loss upon sale or other disposition of such property. (b) **BASIS FOR DEPLETION.** (1) **GENERAL RULE.** The basis upon which depletion is to be allowed shall be such reasonable allowance as may be determined by the State Tax Commission on the adjusted basis provided in Section 345.4 for the purpose of determining the gain or loss upon the sale or other disposition of such property except as provided in paragraph (2) of this sub-section. (2) **DISCOVERY. VALUE IN CASE OF MINES, OIL AND GAS WELLS.** In the case of mines, oil and gas wells discovered by the taxpayer on or after January 1, 1933, not acquired as the result of a purchase or a proven tract or lease where the fair and reasonable market value of the property is materially disproportionate to the cost of the depletion allowance shall be based upon the fair and reasonable market value of the property at the time of the discovery or within thirty days thereafter.

Section 345.13. **ITEMS NOT DEDUCTIBLE.** In computing net income no deduction shall in any case be allowed in respect of (a) Personal, living or family expense; (b) Any amount paid out for new buildings or for permanent improvements or betterment made to increase the value of any property or estate; (c) Any amount expended in restoring property or in making good the exhaustion thereof, for which an allowance is or has been made; or (d) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer when the taxpayer is directly or indirectly a beneficiary under such policy.

Section 345.14. **EXEMPTIONS.** The following exemptions from income tax shall be allowed to every individual resident taxpayer: (a) Dividends received on stocks of domestic corporations. Dividends on stocks of foreign corporations when it is shown to the satisfaction of the State Tax Commission that 50 per centum or more of the net income from which the dividends was declared was earned from sources within the State of Alabama and that the corporation declaring the dividends has paid all income taxes due the State of Alabama. (b) Amounts received as dividends from national banks or national banking associations or from corporations engaged in the business of banking or financial business employing moneyed capital coming into competition with the business of national banks and also net income realized by individuals and partnerships from time to time in the business of banking or of conducting a financial business employing moneyed capital coming into competition with the business of national banks, only during and for the periods during which such national banks, corporations, individuals and partnerships are subject to an excise

tax imposed by this State on or with respect to such income, and dividends paid by any such corporation out of income subject to such excise tax. (c) In the case of a single person, or a married person not living with husband or wife a personal exemption of fifteen hundred (\$1,500.00) dollars, or in the case of a head of a family, or a married person living with husband or wife, a personal exemption of three thousand (\$3,000.00) dollars; a husband and wife living together shall receive but one personal exemption of three thousand (\$3,000.00) dollars against their aggregate income; and in case they make separate returns, the personal exemption of three thousand (\$3,000.00) dollars may be taken by either or divided between them. (d) Three hundred dollars for each person (other than husband and wife) dependent upon and receiving his chief support from the taxpayer, if such dependent person is under eighteen years of age or is incapable of self support because mentally or physically defected.

**Section 345.15. CREDIT FOR TAXES IN CASES OF TAXPAYERS OTHER THAN RESIDENTS OF ALABAMA.** Whenever a taxpayer other than a resident of Alabama has been liable to income taxes to the State or County where he resides, upon his net income for the taxable year derived from sources within this State, and subject to taxation under this Article, there shall be credited the amount of income taxes payable by him under this Article, with such proportion of taxes so payable by him to the State or county where he resides as his income subject to taxation under this Article bears to his entire income upon which the taxes so payable to such other State or county where imposed; provided, that such credit shall be allowed only if the law of said State or county grant a substantially similar credit to residents of this State subject to income tax under such laws.

**Section 345.16. CREDIT FOR TAXES PAID ON INCOME FROM SOURCES WITHOUT THE STATE.** (a) That for the purpose of ascertaining the income tax due under the provisions of this Article, by residents of Alabama whose gross income as defined herein is derived from sources both within and without the State of Alabama, there shall be allowed a credit against the amount of tax found to be due by such resident, on account of income derived from without the State of Alabama, the amount of income tax actually paid by such resident to any state or territory on account of business transacted or property held without the State of Alabama. (b) In case the amount of tax actually paid by a resident of Alabama to another state or territory is in excess of the amount that would be due on the same income computed on the income tax rate in Alabama, then only such amount as would be due in this State on such taxable income shall be allowed as a credit. (c) If the amount of income tax actually paid by a resident of this State to any other state or territory on account of business

transacted or property held, is less than the amount of tax that would be due, as computed on Alabama income tax rates, then the income tax levied herein shall be computed on the entire taxable income from sources from both within and without the State as defined herein, and the tax shall be paid less the credit allowed in this Section for tax paid on income derived from without the State. (d) Before a resident of Alabama may claim the credit allowed under this Section he shall file with his tax return a certificate showing amount of gross and net income derived from sources without this State together with the amount of tax paid or to be paid on such income.

Section 345.17. **PARTNERSHIPS.** Individuals carrying on business in partnerships shall be liable for income tax only in their individual capacity. There shall be included in computing the net income of each partner his distributive share, whether distributed or not, of the net income of the partnership for the taxable year, or, if his net income for the taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the partnership is computed, then his distributive share of the net income of the partnership for any accounting period of the partnership ending within the fiscal year or calendar year upon the basis of which the partner's net income is computed. Taxpayers who are members of partnerships may be required by the State Tax Commission to make returns stating the gross receipts and net gains or profits of the partnership for any taxable year. The net income of the partnership shall be computed in the same manner and on the same basis as provided in computing the net income of individuals, except that the deduction provided in subsection (j) of Section 345.11 shall not be allowed to the partnership, but the proper proportion thereof shall (subject to the limitations imposed by sub-section (j) of Section 345.11 be deductible by the individual partners and the personal exemption provided for in Section 345.13 shall be allowed only to the individual partners.

Section 345.18. **ESTATES AND TRUSTS.** (1) The tax imposed by this Article shall apply to the income of estates or of any kind of property held in trust, including (a) Income received by estates of deceased persons during the period of administration or settlement or settlements of the estate. (b) Income accumulated in trust for the benefit of unborn or unascertained persons with contingent interests. (c) Income held for future distribution under the terms of a will or trust, and (d) Income which is to be distributed to the beneficiaries periodically, whether or not at regular intervals, and the income collected by a guardian of an infant to be held or distributed as the court may direct. (2) The fiduciary shall be responsible for making the return of income for the estate or trust for which he acts. The net income of the estate or trust shall be computed in the same manner and on the same basis as



provided in this Act for individual taxpayers, except that there shall also be allowed as a deduction any part of the gross income which, pursuant to the terms of the will or deed creating the trust, is during the taxable year paid to or permanently set aside for the United States, any state, territory or any political subdivision thereof, or the District of Columbia, or any corporation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholders or individual; and in case under paragraph (d) under sub-division 1 of this section, the fiduciary shall include in the return a statement of each beneficiary's distributive share of such net income, whether or not distributed before the close of the taxable year for which the return is made.

(3) In cases under paragraphs a, b and c of sub-division 1 of this section, the tax shall be imposed upon the net income of the estate or trust and shall be paid by the fiduciary, except that in determining the net income of the estate of any deceased person during the period of administration or settlement, there may be deducted the amount of any income properly paid or credited to any legatee, heir or other beneficiary. In such cases the estate or trust shall be allowed the same exemptions as are allowed to single persons under Section 345.14 and in such cases the estate or trust created by a person not a resident and an estate of a person not a resident shall be subject to tax only to the extent to which individuals other than residents are liable under Section 345.10 sub-division (3). (4) In cases under paragraph (d), subdivision 1 of this section, and in the case of any income of an estate during the period of administration or settlement permitted by subdivision 3 to be deducted from the net income upon which tax is to be paid by the fiduciary, the tax shall not be paid by the fiduciary, but there shall be included in computing the net income of each beneficiary his distributive share whether distributed or not, of the net income of the estate or trust for the taxable year, or, if his net income for the taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the estate or trust is computed, then his distributive share of the net income of the estate or trust for any accounting period of such estate or trust ending within the fiscal year upon the basis of which such beneficiary's net income is computed. In such cases the income of a beneficiary of such estate or trust not a resident shall be taxable only to the extent provided in Section 345.11, subdivision (3), for individuals other than residents.

**Section 345.19. INFORMATION AT SOURCE.** Every resident individual, corporation, association or agent shall make report to the State Tax Commission of complete information covering the amount of all interest, rent, salaries, wages, premiums, an-

nunities, compensations, remunerations, emoluments or other fixed or determinable gains, profits and income, except interest coupons payable to bearer, of any taxpayer taxable under this Article, of one thousand five hundred (\$1,500.00) dollars or more in any taxable year under such regulations and in such form and manner and to such extent as may be prescribed by the State Tax Commission.

#### Section 345.20. INDIVIDUAL TAXPAYERS RETURNS.

(a) Every taxpayer having a net income for the taxable year of fifteen hundred (\$1,500.00) dollars or over, if single, or if married and not living with husband and wife, and of three thousand (\$3,000.00) dollars (if married and living with husband or wife), shall each year, make under oath to the State Tax Commission a return stating specifically the items of his gross income and the deductions and credits allowed by this Article, his place of residence and post office address. If a husband and wife living together have an aggregate gross income of three thousand dollars or over, each shall make a return unless the income of each is included in a single joint return. If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer. A taxpayer other than a resident shall not be entitled to the deductions authorized by Section 345.12 unless he shall make under oath a complete return of his gross income both within and without the State. (b) Every income tax return shall show thereon, in space provided, the name and address of the person who prepared such return. (c) The taxpayer shall be held liable for any statement made by his agent with reference to any information required by law to be furnished in connection with his tax return. (d) (1) Returns made on the basis of the calendar year shall be made on or before the 15th day of March following the close of the calendar year. Returns made on the basis of a fiscal year shall be made on or before the 15th day of the third month following the close of the fiscal year. (2) The Commission may grant a reasonable extension of time for filing returns, under such rules and regulations as it shall prescribe. Except in the case of taxpayers who are abroad, no such extension shall be for more than six months.

Section 345.21. PARTNERSHIP RETURNS. Every partnership shall make a return, to the State Tax Commission, for each taxable year, stating specifically the items of its gross income and the deductions allowed by this Article, and shall include in the return the names and addresses of the individuals who would be entitled to share in the net income, if distributed, and the amount of the distributive share of each individual. The returns shall be sworn to by any one of the partners.

**Section 345.22. FIDUCIARY RETURNS.** Every fiduciary, (except receivers appointed by authority of law in possession of part only of the property of a taxpayer) shall make under oath a return for the taxpayer for whom he acts, first, if the net income of such taxpayer is one thousand five hundred (\$1,500.00) dollars or over, if single, or if married and not living with husband or wife, or three thousand (\$3,000.00) dollars or over, if married and living with husband or wife, or second, if the net income of such taxpayer, if an estate or trust, is one thousand five hundred (\$1,500.00) dollars or over, or if any beneficiary is a taxpayer other than a resident of the State, which returns shall state specifically the items of the gross income and the deductions, exemptions, and credits allowed by this Article under such regulations as the State Tax Commission may prescribe, a return made by one or two or more joint fiduciaries and filed in the office of the State Tax Commission shall be a sufficient compliance with the above requirement. The fiduciary shall make oath that he has sufficient knowledge of the affairs of such individual, estate or trust to enable him to make the return, and that the same is, to the best of his knowledge and belief, true and correct. Fiduciaries required to make returns under this Article shall be subject to all provisions of this Article which apply to taxpayers.

**Section 345.23. RETURN WHEN ACCOUNTING PERIOD CHANGES.** If a taxpayer with the approval of the State Tax Commission, changes the basis of computing net income from fiscal year to calendar year, a separate return shall be made for the period between the close of the last fiscal year for which return shall be made, and the following December thirty-first. If the change is made from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the close of the last fiscal year. If the change is made from one fiscal year to another fiscal year, a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year. If a taxpayer making his first return for income tax keeps his accounts on the basis of a fiscal year, he shall make a separate return for the period between the beginning of a calendar year in which such fiscal year ends and the end of such fiscal year. In all of the above cases the net income shall be computed on the basis of such period for which separate return is made, and the tax shall be paid thereon at the rate of the calendar year in which such period is included; and the exemptions allowed in this Article shall be reduced respectively to amounts which bear the same ratio to the full exemptions provided for as the number of months in such period to twelve months.

Section 345.24. IMPOSITION OF INCOME TAX ON CORPORATIONS. A tax is hereby levied and imposed upon every corporation organized under the laws of Alabama, which shall be assessed, collected and paid annually for the taxable year 1935 and for each taxable year thereafter upon and with respect to their entire net income as hereinafter defined, at rate as follows: Three per centum of the amount of the entire net income in excess of the credits against such net income provided herein. A like tax of three per centum of the entire net income is hereby levied and imposed upon every foreign corporation doing business in the State of Alabama which tax shall be assessed, collected and paid for the taxable year 1935, and for each taxable year thereafter upon and with respect to their entire net income as herein defined, from property situated within this State and from business done and transacted within this State. Such taxes shall be first assessed, collected and paid in the year 1936 upon and with respect to the taxable income for the calendar year 1935, or for any fiscal year ending during the calendar year 1935 and in each and every taxable year thereafter such income tax shall be assessed, collected and paid likewise, based upon the calendar year, or any fiscal year ending during such a calendar year.

Section 345.25. CONDITIONAL AND OTHER EXEMPTIONS. (CORPORATIONS AND ORGANIZATIONS.) The following organizations shall be exempt from taxation under this Article: (1) Labor, agricultural or horticultural organizations. (2) Fraternal beneficiary societies, orders or associations, (a) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system and (b) providing for the payment of life, sick, accident, or other benefits to the members of such society, order or association, or their dependents. (3) Business league, chambers of commerce or boards of trade, not organized for profit, and no part of the net earnings of which inures to the benefit of any private stockholder or individual. (4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare. (5) Clubs organized and operated exclusively for pleasure, recreation and other non-profitable purposes, no part of the earnings of which inures to the benefit of any private stockholder or members. (6) Farmers' and other mutual hail, cyclone or fire insurance companies, mutual ditch or irrigation companies, or like organizations of a purely local character, the income of which consists solely of assessments, dues and fees collected from members for the sole purpose of meeting expenses. (7) Farmers' fruit growers' or like associations organized and operated as sales agents for the purpose of marketing the products of members and turning back the proceeds of sales, less the necessary selling expenses, on the basis of quantity of produce furnished by them. (8) Federal Land Banks

and National farm loan associations as provided in Section 26 of the Act of Congress approved July 17, 1916, entitled "An Act to provide for agricultural development, to create standard forms of investment based upon farm mortgages, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, to create government depositories and financial agent for the United States, and for other purposes. (9) All National Banks and National Banking Associations and all corporations engaged in the business of banking and of conducting a financial business employing moneyed capital coming into competition with the business of national banks during and for the periods during which such national banks and corporations are subject to an excise tax imposed by this State on or with respect to their respective incomes. (10) Building and loan associations, substantially all the business of which is confined to making loans to members. Sub-Section 11. Insurance companies upon which the statutes of Alabama impose a tax upon their premium income.

Section 345.26. **NET INCOME DEFINED. (CORPORATIONS).** In the case of a corporation subject to the tax imposed by Section 345.24 of the Article, the term "net income" means the gross income as defined in Section 345.27 of this Article, less the deductions allowed by Section 345.28 of this Article, and the net income shall be computed on the same basis as provided in Section 345.09 of this Article.

Section 345.27. **GROSS INCOME DEFINED. (CORPORATIONS)** (a) In the case of a corporation subject to the tax imposed by Section 345.24 of this Article, the term "gross income" means the gross income as defined in Section 345.11 of this Article, except that mutual marine insurance companies shall include in gross income the gross premiums collected and received by them, less amounts paid for re-insurance. (b) In the case of a foreign corporation gross income includes only the gross income from sources within this State, including the interest on bonds, notes, or other interest bearing obligations of residents, corporate or otherwise, dividends from resident corporations, and including all amounts received (although paid under a contract for the sale of goods or otherwise) representing profits on the manufacture of goods within this State and the profits on the disposition of goods within this State.

Section 345.28. **DEDUCTIONS ALLOWED. (CORPORATIONS).** In computing the net income of domestic corporations doing business in this State subject to the tax imposed by Section 345.24 of this Article, there shall be allowed as deductions: (1) All ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business including a reasonable allowance for salaries and other compensation for personal services actually rendered, and including rentals or

other payments required to be made as a condition to the continued use of possession of property to which the corporation has not taken or not taking title, or in which it has no equity. (2) All interests paid or accrued within the taxable year on its indebtedness, except on indebtedness incurred or continued to purchase or carry obligations or securities (other than obligations of the United States issued after September 24, 1917), the interest upon which is wholly exempt from taxation under this Article as income to the taxpayer or in the case of a foreign corporation, the proportion of such interest which the amount of its gross income from sources within the State of Alabama bears to the amount of its gross income from all sources within and without the State of Alabama. (3) Taxes paid or accrued within the taxable year (a) imposed by the authority of the United States, or (b) by the authority of any of its possessions; (c) by the authority of any State or territory, or any county, school district, municipality, or other taxing subdivision of any State or territory not including income tax and not including those assessed for local benefits of a kind tending to increase the value of the property assessed but excluding the income taxes levied and imposed under this Article; or in the case of a non-resident individual of foreign corporation taxes paid or accrued within the taxable year imposed by the authority of the State of Alabama or any county school district, municipality or any other taxing subdivision of the State of Alabama excluding the income taxes levied and imposed under this Article, plus the proportion of tax imposed by other authorities above mentioned which the amount of gross income from sources within the State of Alabama bears to the amount of gross income from all sources within and without the State of Alabama; provided, however, that the amount of federal income tax allocated to Alabama may be determined by the ratio that the amount of net income on business done within Alabama bears to the amount of net income from business done within and without the State of Alabama. (4) Losses sustained during the taxable year and not compensated for by insurance or otherwise. (5) Losses from debts ascertained to be worthless and charged off during the taxable year of such ascertainment, if sustained in the conduct of the regular trade or business of the taxpayer during the period covered by an Alabama Tax Law. (6) The amounts received as dividends from a corporation, or any subsidiary corporation of which the parent corporation owns as much as 50 per cent of the capital stock, which is taxable under this Article upon the net income of the parent corporation or the subsidiary. (7) A reasonable allowance for the exhaustion, wear and tear of property used in the trade, or business, including a reasonable allowance for obsolescence. (8) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for

depreciation of improvements, according to the peculiar conditions in each case, based upon the cost, including cost of development not otherwise deducted, such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the State Tax Commission. In the case of leases the deductions allowed by this paragraph shall be equitably apportioned between the lessor and the lessee. (9) In the case of marine insurance companies, there shall be allowed, in addition to the deductions allowed in Paragraphs 1 to 9, inclusive, amounts repaid to policy holders on account of premiums previously paid by them, and interest paid on such amounts between the ascertainment and the payment thereof. (10) In the case of mutual insurance companies (other than mutual life or mutual Marine insurance companies) requiring their members to make premium deposits to provide for losses and expenses, there shall be allowed, in addition to the deductions allowed in Paragraphs 1 to 9, inclusive (unless otherwise allowed under such paragraph) the amount of premium deposits returned to their policy holders and the amount of premium deposits retained for the payment of losses, expenses and re-insurance reserves. (11) In the case of foreign corporations doing business in this State the deductions allowed by this Section shall only be allowed if and to the extent that they are connected with income arising from sources within the State of Alabama, and the proper apportionment and allocation of deductions with respect to the sources of income within and without the State of Alabama shall be determined under the rules and regulations prescribed by the State Tax Commission; provided, that in the case of corporations doing a business partly within and partly without the State where revenue is apportioned or allocated to Alabama the expense in connection with such apportioned or allocated revenue shall be likewise apportioned or allocated to the State, for the purpose of deductions under this Article, or the ratio that company expenses in Alabama bear to the company revenues in Alabama.

Section 345.29. DISTRIBUTION BY CORPORATIONS. (a) DEFINITION OF DIVIDEND. The term "divided" when used in this title means any distribution made by a corporation to its shareholders whether in money or in other property, out of its earnings or profits accumulated after December 31, 1932. (b) SOURCE OF DISTRIBUTIONS.—For the purposes of this Article every distribution is made out of earnings or profits to the extent thereof, and, from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued before January 1, 1933, may be distributed exempt from tax, after the earnings and profits accumulated after January 1, 1933, have been distributed but any such tax free distribution shall be applied against and reduce the basis of the stock provided in Section 345.4. (c) DISTRIBUTIONS IN LIQUIDA-

TION.—Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for stock, and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from such exchange shall be determined under Section 345.5, but shall be recognized only to the extent provided in Section 345.6. In the case of amounts distributed in partial liquidation (other than a distribution within the provisions of Section 345.6 (h) of stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits within the meaning of sub-section (b) of this section for the purpose of determining the taxability of subsequent distributions by the corporations. (d) OTHER DISTRIBUTIONS FROM CAPITAL.—If any distribution (not in partial or complete liquidation) made by a corporation to its shareholders is not out of increase in value of property accrued before January 1, 1933, and is not out of earnings or profits, then the amount of such distribution shall be applied against and reduce the basis of the stock provided in Section 345.4, and if in excess of such basis, such excess shall be taxable in the same manner as a gain from the sale or exchange of property. (e) STOCK DIVIDENDS.—A “stock dividend” as defined herein shall not be subject to tax. (f) REDEMPTION OF STOCK.—If a corporation cancels or redeems its stock (whether or not such stock was issued as a stock dividend) at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock to the extent that it represents a distribution of earnings or profits accumulated after January 1, 1933, shall be treated as a taxable dividend. (g) DEFINITION OF PARTIAL LIQUIDATION.—As used in this Section the term “amounts distributed in partial liquidation” means a distribution by a corporation in complete cancellation or redemption of a part of its stock, or one of a series of distributions in complete cancellation or redemption of all or a portion of its stock.

Section 345.30. ITEMS NOT DEDUCTIBLE. That in computing net income no deduction shall in any case be allowed in respect of any of the items specified in Section 345.13.

Section 345.31. CREDITS ALLOWED. That for the purpose only of the tax imposed by Section 345.24, there shall be allowed the following credits: (a) The amount received as interest upon obligations of the United States and bonds issued by the War Finance Corporation, which is included in gross income under Section 345.27. (b) Amounts received as dividends from national banks or national banking associations or from corporations en-



gaged in the business of banking and of conducting a financial business employing moneyed capital coming into competition with the business of national banks only during and for the periods during which such national banks, corporations, individuals and partnerships are subject to an excise tax imposed by this State or with respect to such income and dividends paid by any such corporation out of income subject to such excise tax.

**Section 345.32. CORPORATION RETURNS.** That every corporation, joint stock company or association subject to income tax under this Article shall make a return to the State Tax Commission for each taxable year stating specifically the items of its gross income and the deductions and credits allowed by this Article. The returns shall be sworn to by the president, vice-president or other principal officer, and by the treasurer or assistant treasurer. In cases where receivers, trustees in bankruptcy or assignees, are operating the property or business of corporations, such receivers, trustees or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control. Returns made under this section shall be subject to the provisions of Section 345.24 of this Article. (1) Returns made on the basis of the calendar year shall be made on or before the 15th day of March following the close of the calendar year. Returns made on the basis of a fiscal year shall be made on or before the 15th day of the third month following the close of the fiscal year. (2) The Commission may grant a reasonable extension of time for filing returns, under such rules and regulations as it shall prescribe. Except in the case of taxpayers who are abroad, no such extension shall be for more than six months.

**Section 345.33. ASSESSMENT OF INCOME TAXES.** The income tax provided for in this Article shall be assessed and fixed as hereinafter provided by the State Tax Commission and upon blanks in the form to be prescribed by the State Tax Commission. Provided, the amount shown to be due by the taxpayer's return shall constitute and create a prima facie liability for such amount on which taxes shall be paid as herein provided. Provided, further, that "assessment" or "assessed" herein used shall refer to and mean the final determination of the amount found to be due by the State Tax Commission. Provided, further, that the mailing of the income tax blank to persons liable for the tax herein provided, shall be the only notice required to be given, except where the amount as finally fixed by the State Tax Commission shall be different from the amount shown to be due by the returns as made by the taxpayer. Provided, further, that the failure to receive such

blank shall not relieve any person required to make a return, from making such return, or the penalties for failure to so do or liability for tax. Provided, further, that where the State Tax Commission determines that the amount due is different from that shown by the taxpayer's return, notice of such different amount shall be given to taxpayer by registered mail, return receipt requested, giving the taxpayer notice of the amount so fixed and the State Tax Commission shall fix a day, not less than fifteen days from date of such notice, for hearing any protest of taxpayer. The time and place of such hearing shall be designated in such notice. Upon hearing such protest or if the taxpayer fails to appear on the day set, the State Tax Commission shall finally fix, determine and assess the amount of tax due and notify the taxpayer thereof by registered mail. Within thirty (30) days from the date of mailing the letter advising the taxpayer of such assessment the taxpayer may, appeal from such assessments in the same manner as in cases of appeals from assessments made by the State Tax Commission as provided for in this Act.

Section 345.34. AMORTIZATION AD VALOREM TAX. Any surplus remaining from the proceeds of the tax imposed by this article after providing for interest and installment annual payments or annual amortization installments on the current debts of the State as of September 30, 1932, shall be applied to the reduction of the ad valorem State tax on real and personal property.

Section 345.35. (a) TIME OF PAYMENT OF TAX. The total amount of tax imposed by this article shall be paid on the 15th day of March following the close of the calendar year or if the return should be made on the basis of a fiscal year, then on the 15th day of the third month following the close of the fiscal year. (b) INSTALLMENT PAYMENTS.—The taxpayer may elect to pay the tax in four equal installments, in which case the first installment shall be paid on the date prescribed for the payment of the tax by the taxpayer, the second installment shall be paid on the fifteenth day of the third month, the third installment on the fifteenth day of the sixth month, and the fourth installment on the fifteenth day of the ninth month, after such date. If any installment is not paid on or before the date fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the Tax Commission. (c) EXTENSION OF TIME FOR PAYMENT.—At the request of the taxpayer, the Commission may extend the time for payment of the amount determined as the tax due by the taxpayer, or any installment thereof, for a period of not to exceed three months from the date prescribed for the payment of the tax or an installment thereof. In such case the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension. (d) VOLUNTARY ADVANCE PAYMENT.—The

tax imposed by this Article, or any installment thereof, may be paid, at the election of the taxpayer, prior to the date prescribed for its payment.

**Section 345.36. TAX PAID THROUGH MISTAKE OR ERROR.** In case any taxpayer has through mistake or error paid an income tax which he is not legally due, or has paid an amount in excess of which he was in fact due, such taxpayer may make application on forms furnished therefor, to the State Tax Commission to have such amount erroneously paid refunded, and upon making satisfactory proof to the State Tax Commission that such error was made, the State Tax Commission shall certify to the State Comptroller the amount to be refunded by the State and warrant shall be drawn for such refund as provided in Act No.432 of General Acts of Alabama, approved July 17, 1931. In the event the State Tax Commission fails or refuses to certify to the State Comptroller the amount of tax due to be refunded or if he certifies a lesser amount than the taxpayer deems he is entitled to have refunded, the taxpayer may institute a proceeding in the Circuit Court of Montgomery County in the nature of a mandamus proceeding to require the State Tax Commission to certify, to the **State Comptroller, the amount due to be refunded to such taxpayer.** The taxpayer shall have the right to institute and prosecute such proceeding in the nature of mandamus whether or not the tax shall have been paid under duress or protest and without regard to the fact that the State Tax Commission may be entitled to exercise in respect of the determination of the amount to be refunded some measure of discretion and the Court shall be entitled to determine whether or not and to what extent any discretion committed to the State Tax Commission shall have been properly exercised.

**Section 345.37. INSTALLMENT BASIS. (a) DEALERS IN PERSONAL PROPERTY.**—Under regulations prescribed by the State Tax Commission, a person who regularly sells or otherwise disposes of personal property on the installment plan may return an income therefrom in any taxable year that proportion of the installment payments actually received in that year which the gross profit realized or to be realized when payment is completed bears to the total contract price. **(b) SALES OF REALTY AND CASUAL SALES OF PERSONALITY.**—In the case of (1) Of a casual sale or other casual disposition of personal property (other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year), for a price exceeding \$1,000.00, or (2) Of a sale or other disposition of real property, if in either case the initial payments do not exceed 40 per centum of the selling price, the income may, under regulations prescribed by the State Tax Commission, be returned on the basis and in the manner above prescribed in this

**Section.** As used in this Section the term "initial payments" means the payments received in cash or property other than evidences of indebtedness of the purchaser during the taxable period in which the sale or other disposition is made. (c) **CHANGE FROM ACCRUAL TO INSTALLMENT BASIS.**—If a taxpayer entitled to the benefits of subsection (a) elects for any taxable year to report his net income on the installment basis, then in computing his income for the year of change or any subsequent year, amounts actually received during any such year on account of sale or other dispositions of property made in any prior year shall be excluded. (d) **GAIN OR LOSS UPON DISPOSITION OF INSTALLMENT OBLIGATIONS.**—If an installment obligation is satisfied at other than its face value or distributed, transmitted, sold, or otherwise disposed of, gain or loss shall result to the extent of the difference between the basis of the obligations and (1) in case of satisfaction at other than face value or a sale or exchange the amount realized, or (2) in case of a distribution, transmission, or disposition otherwise than by sale or exchange—the fair and reasonable market value of the obligation at the time of such distribution, transmission, or disposition. The basis of the obligation shall be the excess of the face value of the obligation over an amount equal to the income which would be returnable were the obligation satisfied in full. This subsection shall not apply to the transmission at death of installment obligations if there is filed with the State Tax Commission, at such time as he may by regulation prescribe, a bond in such amount and with such sureties as he may deem necessary, conditioned upon the return as income, by the person receiving any payment on such obligations, of the same proportion of such payment as would be returnable as income by the decedent if he had lived and had received such payment.

**Section 345.38. PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION.** (a) **GENERAL RULE.**—The amount of income taxes imposed by this Act shall be assessed within two years after the return was filed, and no proceeding in Court without assessment for the collection of such taxes shall be begun after the expiration of such period. (b) **REQUEST FOR PROMPT ASSESSMENT.**—In the case of income received during the lifetime of a decedent, or by his estate during the period of administration, or by a corporation, the tax shall be assessed, and any proceeding in Court without assessment for the collection of such tax shall be begun, within one year after written request therefor (filed after the return is made) by the executor, administrator or other fiduciary representing the estate of such decedent, or by the corporation, but not after the expiration of two years after the return was filed. This subsection shall not apply in the case of a corporation unless (1) Such written request notifies

the Commission that the corporation has dissolved or contemplates dissolution at or before the expiration of such year; and (2) The dissolution if not completed at the time of such written request is in good faith begun before the expiration of such year; and (3) The dissolution is completed.

Section 345.39. EXCEPTIONS. (a) FALSE RETURN OR NO RETURN.—In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. (b) WAIVERS.—Where before the expiration of the time prescribed in the foregoing Section, for the assessment of the tax, both the State Tax Commission and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. (c) COLLECTION AFTER ASSESSMENT.—Where the assessment of any income tax imposed by this Article has been made within the period of limitation properly applicable thereto, such tax may be collected by distraint or by a proceeding in court, but only if begun (1) Within six years after the assessment of the tax, or (2) prior to the expiration of any period for collection agreed upon in writing by the State Tax Commission and the taxpayer before the expiration of such six-year period. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Section 345.40. LIMITATION UPON SUITS AND PROCEEDINGS BY THE TAXPAYER. No suit or proceeding shall be maintained in any court for the recovery of any tax collected under the authority of this Act alleged to have been erroneously or illegally assessed or collected or of any penalty claimed to have been collected without authority or of any sum alleged to have been excessively or in any manner erroneously collected (except as may be otherwise provided in Section 345.33 of this Article until the claim for refund or credit has been duly filed with the State Tax Commission according to the provisions of law in that regard and regulations established in pursuance thereof but such suit or proceeding may be maintained whether or not such tax, penalty or sum has been paid under protest or duress. No such suit or proceeding shall be begun before the expiration of three months from the date of filing such claim unless the State Tax Commission renders a decision thereon within that time, nor after the expiration of five years from the date of payment of such tax, penalty or sum, unless such suit or proceeding is begun within two years after the disallowance of the part of such claim to which such suit

or proceeding relates; provided, however, that this Section shall not prejudice or impair the right of the taxpayer to a credit against taxes imposed by this Article for the amount of any refund allowed in accordance with the provisions of Section 345.36 of this Article nor for the amount of any judgment recovered in accordance with Section 345.33 of this Article even though at the time such credit is claimed the right of any such taxpayer to file suit would be barred hereunder. The State Tax Commission shall within ninety days after any disallowance of any such claim for refund notify taxpayer thereof by mail.

Section 345.41. CUSTODY OF INCOME TAX RETURNS AND RECORDS. The Income tax returns and records shall remain in the office of the State Tax Commission and shall not be open to public inspection.

Section 345.42. ASSESSMENT OF INCOME TAX AGAINST THOSE FAILING TO MAKE RETURN AND PENALTIES FOR SUCH FAILURE. Any person or corporation failing or refusing to make a list or return required by this Article, or rendering a wilfully false or fraudulent list or return, shall be assessed by the State Tax Commission on account of such income tax in such manner as appears to it from the best information obtainable, either by examination of the defaulting taxpayer or any other evidence, that such taxpayer is liable for. In case of failure or neglect to make such list or return, the State Tax Commission shall add a penalty of not more than twenty-five per centum as a penalty to the amount of the tax due; and in the case of a wilfully false or fraudulent return or list having been rendered, the State Tax Commission shall add a penalty of not more than fifty per centum as a penalty to said tax.

Section 345.43. PENALTY FOR FAILURE TO MAKE RETURN WITHIN TIME SPECIFIED. Any person or corporation, joint stock company or association liable to income tax under this Article, who shall fail to make return as required by this Article within the time allowed shall be guilty of a misdemeanor and on conviction thereof shall be fined not less than ten dollars, nor more than one thousand.

Section 345.44. FURTHER PROVISION AS TO THE COLLECTION OF INCOME TAXES. That in every respect herein specified in this Article, returns for the levy and collection of the taxes herein provided for shall be subject to the lien provisions of this Act. All income taxes collected by the State Tax Commission shall be as soon as practicable turned over to the State Treasurer and his receipt taken therefor. The State Tax Commission shall not take any action to collect any income tax before the same becomes delinquent, except in cases of emergency where delayed action might result in the loss of such taxes.

**Section 345.45. INCOME TAX RETURNS NOT PUBLIC DOCUMENTS EXCEPT IN CERTAIN CASES.** It shall be unlawful for any person to print or publish in any manner whatever the income tax return of any taxpayer or any part thereof or the taxes due thereon or to divulge to any person whatever, except persons required or authorized to collect or audit or assist in collecting or auditing the returns or to use the information contained in any such return or acquired in auditing any such return or enforcing the provisions of the Article for any purpose except for the audit of such return and collection of the tax imposed by this Article, unless the tax thereby imposed becomes delinquent; and any person violating the provisions of this Section shall be deemed guilty of a misdemeanor, and shall be fined not to exceed Fifty Dollars (\$50.00) or sentenced to hard labor for the county for not more than thirty days, one or both for each offense and upon conviction thereof any such person shall thereafter be ineligible to hold the office of Chairman or member of the State Tax Commission or become or be an employee or agent of the State Tax Commission or under the State Tax Commission. Any person making any affidavit required herein who shall knowingly swear falsely, shall be guilty of perjury. Any assistant or agent of the State Tax Commission who shall wilfully refuse to perform the duties imposed upon him by this Article or by the State Tax Commission shall be deemed guilty of a misdemeanor and shall be fined not exceeding fifty dollars, or sentenced to hard labor for the county for not more than thirty days, one or both, for each offense. All income tax returns and information secured by income tax officials or employees for the purpose of arriving at income taxes, shall be kept under lock and key by the State Tax Commission, and any official or employee of the State or of any county who shall divulge the contents thereof except under order of court, shall be guilty of a misdemeanor and shall be subject to a fine of not more than fifty dollars, or shall be sentenced to hard labor for the county for not more than thirty days, one or both, and any person found guilty of violating this provision of this Article shall thereafter be ineligible to hold the office of Chairman or member of the State Tax Commission or become or be an employee or agent of the State Tax Commission or under the State Tax Commission.

**Section 345.46. SALARIES, EXPENSES, WAGES AND AUDITING.** (a) The assessment and collection of the income taxes imposed by this Article shall be under the supervision of the State Tax Commission, who shall, with the approval of the Governor, employ such assistants and clerks as shall be necessary to carry out the provisions of the Article. (b) The salaries of all persons employed by the State Tax Commission for the enforce-

ment of the income tax law shall be fixed by the State Tax Commission by and with the consent of the Governor. The necessary printing, stationery, postage and office equipment shall be supplied by the State in the same manner as it is supplied to the State Tax Commission. The State Tax Commission, its assistants and employees shall be entitled to receive actual necessary expenses incurred in the performance of their duties. The salaries, wages and expenditures provided for by this Article with reference to income taxes shall be audited and paid out of the State Treasury in the same manner as other salaries, wages and expenditures of the State Tax Commission are audited and paid. All payments therein required shall be made out of revenues provided by this Article.

Section 345.47. **STATEMENT TO BE FURNISHED BY TAXPAYER.** Every corporation, joint stock company or association organized under the laws of the State or organized under the laws of any other state, nation or territory and doing business in this State, whether taxable under this Article or not, shall furnish to the officers and employees of the State charged with the duties of carrying out the provisions of this Article, a true and accurate statement at such times and in such manner and form and setting forth such facts as the State Tax Commission shall deem necessary to enforce the provisions of this Article. Such statement shall be made upon oath or affirmation of the officer or employee of the corporation, joint stock company or association best qualified to furnish the desired information.

Section 345.48. **INFORMATION TO BE GIVEN BY THE TAXPAYER ON DEMAND BY THE STATE TAX COMMISSION.** The State Tax Commission may at any time in his discretion require the taxpayer to furnish a sworn statement of the annual return of income made under the provisions of the Act of Congress of the United States for the calendar or fiscal year in question or for the preceding calendar or fiscal year. Any person who shall wilfully fail to comply with this demand shall be guilty of a misdemeanor, and on conviction thereof, shall be fined not more than one hundred dollars, and may be sentenced to hard labor for the county for not more than six months, or both. No taxpayer shall be subjected to unnecessary examination or investigation, and only one inspection of a taxpayer's books of accounts shall be made for a taxable year unless the taxpayer request otherwise or unless the State Tax Commission, after investigation, notifies the taxpayer in writing that an additional inspection is necessary, together with the reasons for such additional inspection.

Section 345.49. **RULES TO BE PROMULGATED BY THE STATE TAX COMMISSION.** The State Tax Commission shall from time to time, as said Commission shall deem desirable, promulgate such reasonable rules and regulations governing procedure



and methods of ascertaining and determining gains and income so as to conform as nearly as possible to the best accounting practice in every trade or business, and as most clearly reflecting the income therefrom.

Section 345.50. **PENALTY FOR VIOLATING TERMS OF ARTICLE.** Any officer or employee who shall in violation of the terms of this Article disclose any fact connected with the return of income tax shall be guilty of a misdemeanor, and shall be discharged from his office or employment.

Section 345.51. **CONSTITUTIONALITY OF ARTICLE.** That the provisions of this Article are severable and if any section or sections, paragraph or paragraphs, sentence or sentences, clause or clauses, phrase or phrases, word or words of this Article shall be held to be unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the same shall not affect or impair any of the remaining provisions, sections, paragraphs, sentences, clauses, phrases, and/or words of this Article. It is hereby declared to be the legislative intent that this Article and each section, paragraph, sentence, clause, phrase and word thereof would have been enacted had such unconstitutional section or sections, paragraph or paragraphs, sentence or sentences, clause or clauses, phrase or phrases, and word or words not been included herein.

## ARTICLE XII.

### CHAPTER 1.

#### EXCISE TAX, FINANCIAL INSTITUTIONS

Section 346.1. When used in this schedule, the following terms shall have the following meanings: (a) "Financial Institution" shall mean and include any person, firm, corporation, and any legal entity whatever doing business in this state as a national banking association, bank, banking association, trust company, industrial or other loan company, building and loan association, and shall likewise include any other institution or person employing moneyed capital coming into competition with the business of national banks, and shall apply to such person or institution regardless of what business form and whether or not incorporated, whether of issue or not, and by whatsoever authority existing. "Financial Institution" shall not mean nor include individual citizens and fiduciaries acting in a representative capacity for individual citizens, not engaged in a banking, loan, investment or similar business, but merely making personal investments of personal or fiduciary funds in bonds, notes, or other evidences of indebtedness and not made in competition with the business of national banks,

nor shall such term apply to insurance companies or insurance associations making merely investments of reserves in bonds, notes, or other evidences of indebtedness and not made in competition with the business of national banks. (b) "Net Income" shall mean and include the net income for the taxable year, as in this Act defined, arising from the business the privilege to engage in which is hereby taxed computed by deducting from the gross income arising from such business, without any exclusions from or credit to such gross income, the total amount of the following deductions: (1) EXPENSES. All the ordinary and necessary expenses paid or incurred during the year the income is received which is made the basis of the tax in carrying on the business, the privilege to engage in which is hereby taxed, including a reasonable allowance for salaries or other compensation for personal service actually rendered. Traveling expenses including a reasonable amount expended for meals and lodgings while away from home in the necessary business of such institutions; rentals or other payments required to be made as the condition to the continued use or possession for the purposes of such business, of property to which the taxpayer has not taken or is not taking title or in which the taxpayer has no equity, provided the amount and the reasonableness of all such expenditures shall be approved by the State Tax Commission. (2) INTEREST. All interest paid or accrued within the taxable year on the indebtedness of said business. (3) TAXES. Taxes actually paid within the year in which the income on which the tax is based was received, except the excise tax imposed by this Act and taxes assessed against local benefits of a kind tending to increase the value of the property assessed. (4) LOSSES: Losses sustained and determined during the taxable year by the business and not compensated for by insurance or otherwise. (a) The basis for determining the amount of any loss or gain shall be the cost to the financial institution of the asset disposed of less the actual depreciation sustained on physical assets and any reduction charged as an expense upon stocks, bonds or other securities in previous years. (b) No loss shall be allowable unless the property is actually disposed of and the loss thereby determined or an appraisal of the loss is made and allowed under the supervision of the State Tax Commission. (5) BAD DEBTS. Debts ascertained to be worthless and charged off within the taxable year. Provided, however, that a schedule of such debts shall be filed and the reasons supporting such claim for deduction be filed with the return. Provided, further that bad debts shall not include losses on stocks and bonds or a reduction in the market value of such stocks and bonds except where loss is determined by sale of such securities. Provided however, in the case of banks only such debts can be charged off and to such

amount or extent as approved or required to be charged off by State, Federal or Federal Reserve Bank Examiners, provided that the State Tax Commission shall not be required to make any allowance because of such action of such examiners. Provided, further, that when satisfied that a debt is recoverable only in part, the State Tax Commission may allow a deduction of a part of such debt. (6) **DEPRECIATION.** A reasonable allowance for the exhaustion, wear and tear of property used in the business, including a reasonable allowance for obsolescence. The basis for determining the amount of such depreciation deduction shall be the cost of such property, or if acquired prior to the effective date of this Act the basis shall be the depreciated cost as of the effective date of this Act. (7) The amount received as dividends from a corporation organized and existing under the laws of the State of Alabama and the amount received as dividends in liquidation paid from capital. (8) In the discretion of the State Tax Commission, in lieu of such deductions for losses and/or bad debts, a reasonable addition to reserves therefor and for extraordinary expenses. (9) In the case of building and loan associations the amount paid out as dividends on the withdrawable shares thereof. (c) **"Taxable year"** shall mean a full period of twelve consecutive months constituting the fiscal year or calendar year of each financial institution ended last prior to April 1, 1935, and thereafter ended last prior April 1st of each year in which such tax is to be assessed. In the case of any business hereby taxed conducted only during a fractional period in any year, return shall be made as herein provided and the tax computed as herein provided, and such tax as assessed shall be an excise for the privilege of doing business in this State for such fractional year. (d) **"State Tax Year"** shall mean the calendar year.

**Section 346.2. RETURNS.** Every financial institution, as in this Article defined, shall within the first ten days of April, 1936, and within the first ten days of April in each year thereafter, make and file with the State Tax Commission a return, sworn to by its cashier, treasurer, or other authorized officer or employee, if a corporation, or by a person or authorized employee in charge of the conduct of the business to be taxed if an individual, firm, association or other legal entity, in such form as may be prescribed by the State Tax Commission, giving such detailed information as the State Tax Commission may in its opinion require to determine the net income of such financial institution for the taxable year by the net income of which said excise tax is to be measured. The State Tax Commission may make such reasonable rules and regulations as it may deem necessary to determine the business conducted in the State which are subject to said excise tax and to determine the net income of such business by which said tax is to be measured.

Provided that any financial institution conducting a business both within and without the State of Alabama and coming within the provisions of this article shall be required to make a report to the State Tax Commission showing the amount of its income received from the business conducted by it within the State of Alabama and the expenses incurred by it in the conduct of its business within the State of Alabama. Failure to file any such return on or before the due date thereof in the absence of extension of time in writing for the filing thereof granted by the State Tax Commission shall subject the financial institution so failing to a penalty of fifteen per cent of the amount of tax assessed, which amount shall be assessed and collected as a part of the tax, and a like penalty of five dollars (\$5.00) per day for each day's failure to file such return, which penalty shall be collected by civil suit.

Section 346.3. (a) LEVY AND REVIEW. Every such financial institution shall pay to the State annually for each taxable year an excise tax for the privilege of engaging in this State in the business of banking and of conducting a financial institution, as in this article defined, and of conducting a business employing moneyed capital coming into competition with the business of national banks measured by its net income for such taxable year at the rate of six per cent (6%) of such net income. The amount of such excise tax shall not be in excess of any limit fixed thereon by any present or future federal statute relating to the taxation of national banks by this State. The State Tax Commission may establish and enforce such reasonable rules and regulations for the determination and assessment of such tax as to it may seem necessary or desirable. The State Tax Commission shall as soon as possible after the required return has been filed with it by an institution subject to the excise tax herein levied, ascertain and assess the amount of excise tax due by such financial institution. The State Tax Commission shall immediately give notice to the taxpayer by registered mail of the date and amount of such assessment, notifying such taxpayer that the Tax Commission will sit at a day named not less than ten days from date of mailing said notice, to hear any objections thereto. If on or before the day set for hearing no objections have been filed, or if upon hearing the State Tax Commission is of the opinion that the assessment as made should not be changed, the State Tax Commission shall make said assessment final. The State Tax Commission shall immediately notify the Attorney General of such final assessment. Such final assessment shall have the full force and effect of a judgment, upon which execution may be issued by the State Tax Commission directed to any Sheriff of the State of Alabama to be executed in like manner as executions upon judgments of Circuit Courts, and return shall be made within thirty days of

the receipt thereof. (B) Either the State or the taxpayer may appeal from the final assessment made by the State Tax Commission in the manner provided for appeals from assessments made by the State Tax Commission. (C) In any trial in the Circuit Court there may be presented in evidence by the State Tax Commission or by the State, facts secured by the State Tax Commission from the United States Treasury Department or any Department or Bureau thereof, which facts so secured shall be legal evidence upon such trial. (d) The State shall have a lien upon the property of such taxpayer as provided for in this Act for the collection of the taxes herein assessed.

Section 364.4. The excise tax hereby levied and to be assessed shall be payable within thirty days of notice of assessment thereof by the State Tax Commission for the privilege of engaging in such business within this State during the current State Tax year and during each State tax year thereafter. Said tax shall become delinquent upon the expiration of such thirty days and shall thereafter bear interest at the rate of eight per cent per annum until paid. But if the delinquency continues more than thirty days after the notice of assessment, there shall be collected a penalty of one per cent per month for each month or part thereof, that the tax shall remain unpaid, after the beginning of the delinquency period. The State Tax Commission may in its discretion extend the time for the payment of the tax either by general extension to all taxpayers liable therefor or by special extension to a particular taxpayer, in which event the one per cent penalty herein prescribed shall not accrue.

Section 346.5. PAYMENT AND DISTRIBUTION OF THE TAX. The remittance of the excise tax herein required shall be made to the State Tax Commission at Montgomery, Alabama, with checks payable to the State Treasurer of Alabama. The proceeds of the excise tax herein imposed by this article shall be, without delay, covered into the State Treasury to the credit of the Financial Institution Excise Tax Fund. All expenses incurred by the State Tax Commission in the administration of this Article shall be paid out of the money collected under the provisions hereof. The amount remaining in said Financial Institution Excise Tax Fund, after all expenses incurred in the administration of this article have been paid, shall, on the first day of September, 1936, and on the first day of September in each year thereafter be distributed as follows: On certificate of the State Tax Commission the State Comptroller shall draw his warrant on the State Treasurer payable to the County Treasurer of each of the several counties in which such financial institutions are located, for an amount equal to one-half of the tax received from the institutions located in such county, after deducting the proportionate part

of the expenses incurred in the administration of this Article. On similar certificate the State Comptroller shall draw his warrant on the State Treasurer in favor of the Treasurer of each of the several municipalities in which such financial institutions are located for an amount equal to one-fourth of the tax received from the institutions located in such municipalities, after deducting the proportionate part of the expenses incurred in the administration of this article. The amount remaining in such Financial Institution Excise Tax Fund, after the payment of the expenses as heretofore in this article provided, and after the distribution to the counties and municipalities of their proportionate part of the said tax, shall be covered into the General Fund of the State of Alabama. Any financial institution which conducts its business in more than one municipality or in more than one county in this State shall in making the return required by this article report in detail the percentage of its total business in the State conducted in each such municipality and in each such county and the portions of tax paid by each such financial institution due to be distributed to the municipality and county shall be distributed prorata according to the percentages so reported to the several municipalities and counties where such business is conducted instead of solely to the one where the principal place of business of such financial institution is located in this State. No municipality or county within the State shall have the right to levy or assess any such excise tax for the privilege of engaging in such business in addition to that hereby levied and to be distributed to it as herein provided, except license taxes not in excess of those heretofore legally levied and in effect. Provided, in counties of 60,000 or more population the tax shall be divided as follows:  $\frac{1}{2}$  shall be paid to the city in which the financial institution is located,  $\frac{1}{4}$  shall be paid to the Treasury of the county where such institution is located and  $\frac{1}{4}$  shall be paid into the State Treasury.

Section 346.6. All moneyed capital employed in the business the privilege of engaging in which is hereby taxed, and the shares of all financial institutions, as in this article defined, shall be exempted from assessment and payment of ad valorem taxes, except the moneyed capital and shares of any business hereby taxed which fails to make and file the returns required by this Article and to pay the tax levied by this Article as and when in this Article provided. The real estate owned by every such financial institution shall not be exempted. If any other tax, whether on property (other than ad valorem taxes on real estate), income, business or any element thereof, except license taxes not in excess of those heretofore legally levied and in effect, be hereafter levied by this State or by any political subdivision of this State on any financial institution as in this article defined, the amount of such other tax

due by such institution shall be credited on account of the tax payable pursuant to the provisions of this article. Provided that no other tax levied by this Act shall be credited against the excise tax herein levied.

## ARTICLE XII.

### CHAPTER 2.

#### ESTATE AND INHERITANCE TAX

Section 347.1. Subject to the exception hereinafter stated, there is hereby levied and imposed upon all net estates passing by will, devise, or under the intestate laws of the State of Alabama, or otherwise, which are lawfully subject to the imposition of an estate tax by the State of Alabama, a tax equal to the full amount of State tax permissible when levied by and paid to the State of Alabama as a credit or deduction in computing any federal estate tax payable by such estate according to the Act of Congress in effect, on the date of the death of the decedent, taxing such estate, with respect to the items subject to taxation in Alabama. The tax hereby imposed shall not exceed in the aggregate amounts which may by any law of the United States be allowed to be credited against or deducted from such federal estate tax. The estate tax hereby levied shall be levied only so long as and during the time an inheritance or estate tax is enforced by the United States against Alabama inheritances or estates, and shall only be exercised or enforced to the extent of absorbing the amount of any deduction or credit which may be permitted by the laws of the United States now existing or hereafter enacted to be claimed by reason thereof as deduction or credit against such similar tax of the United States applicable to Alabama inheritances or estates. The rates of taxation and the definition of "net estate" and the methods of arriving thereat shall be as provided in such Act of Congress.

Section 347.2. The term "executor," or "administrator" or "legal representative" used interchangeably in this Chapter shall be held to mean the executor and or administrator or trustee and or legal representative of the decedent whose estate is subject to an estate tax under this Act. In the case no executor or administrator is appointed and qualified, then the term "executor" as used herein shall be held to mean any person in actual or constructive possession, and acting for any estate subject to tax under this Chapter.

Section 347.3. That it is hereby made the duty of the Executor of the estate of any person who has died a resident of Alabama, and upon which estate the tax imposed under any federal revenue

act, has not been paid, and the Executor of any person who may hereafter die a resident of this State, and whose estate is subject to the payment of a Federal Estate Tax, to file with the State Tax Commission of Alabama within thirty days, a duplicate of all the returns which he is required to make to the federal authorities for the purpose of having the estate taxes determined. When such duplicate return is filed with the State Tax Commission, it shall compute the amount of tax that would be due upon said return as Federal Estate Taxes imposed under the Federal Revenue Act of February 26, 1926, or other Federal Acts permitting credit of inheritance or estate taxes to the States, upon the property of said estate taxable in the State of Alabama, and assess against said estate as Estate Tax for the State of Alabama, the amount levied and found to be due under the provisions of such Act, or Acts. Provided that if after any duplicate returns, herein required, and the assessment of the State estate taxes, upon basis of return made, the federal authorities shall increase or decrease the amount of the Federal Estate Tax, an amended return shall be filed with the State Tax Commission, showing all the changes made in the original return and the amount of increase or decrease in the Federal Estate Tax, and the State Tax Commission shall assess against said estate the additional amount found to be due hereunder. In the event of a decrease in the Federal Estate Tax the State shall refund to said estate its proportion of said decrease.

Section 347.4. The tax imposed by this Act shall be due and payable on or before one year after the decedant's death, and shall be paid by the personal representative to the State Tax Commission, provided, however, that where the State Tax Commission finds that the payment on the due date of any part of the amount due would impose undue hardship upon the estate, the State Tax Commission may extend the time for payment of all or any part, not to exceed five years from the original due date. In such case the amount or amounts in respect of which the extension is granted shall be paid on or before the dates thus fixed, unless further extended within said limitation as to time. If the time for payment is extended, there shall be collected in addition to the tax, interest thereon at the legal rate from the original due date of the tax to the date of payment. The State Tax Commission may, in its discretion, accept such security as it may approve, for the deferred payments, or may release any part or remainder of the estate from any claim or lien for the payment of the tax.

Section 347.5. In the event that the federal authorities shall, after the filing of the return with the State Tax Commission, increase or decrease the amount of the Federal Estate Taxes as a result of appeal or otherwise, an amended return shall be filed



with the State Tax Commission showing all the changes made in the original return and the amount of final increase or decrease in the Federal Estate Tax. If the amended return shall show an increase in the amount of the Federal Estate Tax, the State Tax Commission shall assess against and there shall be payable in respect to said estate any deficiency in the tax theretofore paid or assessed. If the amended return shall show a decrease in the Federal Estate Taxes, the State Tax Commission, on receipt of appropriate certificate of refund, abatement or recovery, shall forthwith certify the amount of such refund found to be due to such estate to the State Comptroller, who, upon receipt of such certificate of refund due, shall issue his warrant for the amount shown in said certificate, payable to the person legally authorized to receipt for such refund, such payment to be made from the General State Funds.

Section 347.6. The amount of the estate taxes imposed by this Chapter and any deficiency in respect thereof shall be assessed within three years after the return is filed and no proceeding in court or assessment for the collection of such taxes shall be begun after the expiration of three years after the return is filed.

Section 347.7. (1) Except as herein otherwise provided, all of the provisions of this Chapter shall be applicable to so much of the estates of non-resident decedents as is subject to estate tax under the Act of Congress in effect at the time of the death of decedent as consists of real estate or tangible personal property located within this State, or other item of property or interest therein lawfully subject to the imposition of an estate tax by the State of Alabama. (2) In assessing the tax upon any real estate or tangible property located within this State, belonging to the estate of a non-resident decedent, which shall by will, or devise by the laws of intestacy, the State Tax Commission shall determine the tax due to be such proportion of the Federal Estate Tax as would be leviable upon an estate of similar taxable net value less that proportion of any exemption to which the estate is entitled, which the actual value of the real estate and tangible personal property located within this State belonging to the estate of the non-resident decedent bears to the actual value of the gross estate of the non-resident decedent wherever situate whether in this State or not. (3) No tangible personal property located within this State, belonging to the estate of a non-resident decedent and taxable under this Chapter, shall be transferred or delivered to any person except a legal representative of the estate of said deceased duly appointed whether in this State or in the State of the decedent's domicile by a court having jurisdiction for the purpose. (4) Such property shall not be transferred or delivered to a foreign legal representative until the tax has been paid, except under

such conditions and after giving such security as the State Tax Commission may agree upon. Any person or corporation which shall transfer or deliver or having control thereof shall permit the transfer or delivery of any such property to any person other than a resident legal representative before such tax has been paid shall be liable for the tax and additional penalty of not more than one thousand dollars in an action brought by the State Tax Commission for the use of the State. (5) Legal representatives shall be liable for such tax upon and to the extent of all such property which shall come into their hands as such, with interest as hereinafter provided. (6) Every person having in his possession or control any tangible personal property belonging to the estate of a non-resident and taxable under this Chapter, shall, unless the property is delivered to a resident legal representative within thirty days after the death of the owner, notify the State Tax Commission and prepare and transmit to him an itemized schedule of the property. If the tax is not paid or a resident legal representative appointed within one year after the owner's death, the Circuit Court of the County of Montgomery in equity shall, upon petition of the State Tax Commission, appoint a resident legal representative, or a special legal representative as the circumstances of the case may require, to whom the property shall be transferred, whose duty it shall be to collect and pay the tax and to account for the balance of the property according to law under order of the Court. (7) All taxes imposed by this Chapter in relation to estates of non-resident decedents shall be due and payable at the time of the death of the decedent and if not paid within one year thereafter, unless the time for payment shall be extended, interest at the rate of twelve per cent per annum shall be charged and collected from the expiration of one year after the death of the decedent and said taxes and interest shall be and remain a lien on the property transferred until the same are paid. (8) Real estate and tangible personal property within the jurisdiction of this State, except as otherwise provided, belonging to non-residents which shall pass by deed, grant, bargain, sale, or gift, made in contemplation of death, or made or intended to take effect in possession or enjoyment at or after the death of the grantor or donor, shall be subject to the same tax imposed upon transfers hereinbefore described by this Chapter. The taxes upon such transfer shall become due and payable at once upon the death of the grantor or donor, and if not paid within one year from the death of the grantor or donor, unless the payment shall be extended, shall be subject to interest as aforesaid after the expiration of said period, until paid. Said taxes and interest shall be a charge against the person receiving such property and the property transferred shall be subject to a lien to secure its payment. All persons or corporations

within the jurisdiction of the State in whose possession or control any such property so transferred or to be transferred remains at the time of the death of the grantor, or donor, shall be subject to all the duties, liabilities, and penalties, imposed herein upon persons having the possession or control of personal estate of such decedent. (9) A resident legal representative holding personal property of a deceased non-resident subject to said tax shall deduct the tax therefrom or collect it from the legal representative in the State of the decedent's domicile, and shall not deliver such property to his or any other person until he has collected the tax and paid the same to the State Tax Commission. When the transfer of such personal property is subject to a tax under the provisions of this Act and the legal representative in the State of domicile neglects or refuses to pay the tax upon demand, or if for any reason the tax is not paid within one year after the decedent's death, or within the time extended, the resident legal representative may, upon such notice as the Circuit Court of the County of Montgomery may direct, be authorized to sell such property, or, if the same can be divided, such portion thereof as may be necessary, and shall deduct the tax from the proceeds of such sale and shall account for the balance, if any, in lieu of the property. When a conveyance made by non-resident decedent in his lifetime is subject to said tax, the resident legal representative shall collect the taxes due on account of such conveyance and may be authorized to sell any property subject to the lien of such tax, as in other cases. (10) The State Tax Commission shall determine the amount of all taxes due and payable under the provisions of this Chapter in relation to non-resident decedents and shall certify the amount due and payable to the resident legal representative, if any, otherwise, to the person or persons by whom the tax is payable. (11) The State Tax Commission, whenever it has knowledge or reasons to believe that any person, firm or corporation has in his, its, or their possession or control any tangible personal property belonging to the estate of a deceased non-resident upon or in respect to which the tax has not been paid and a schedule of which has not been furnished, as herein provided, or that any such person, firm or corporation has received a transfer or delivery of such property or made such a transfer or delivery (except to a resident legal representative) upon which or in respect to which the tax has not been paid, as herein provided, or that such person, firm or corporation has knowledge of a transfer or delivery of any such personal property, of such non-resident decedent in his lifetime, by deed, grant, bargain, sale or gift, made in contemplation of death, or made or intended to take effect in possession or enjoyment at or after the death of the grantor or donor, or has posses-

sion or control of property so transferred, may require such person or any member of such firm or any officer of such corporation to appear at the office of the State Tax Commission at Montgomery, at such time as the State Tax Commission may designate, and then and there to produce for the use of the department all books or papers which may be in the possession or control of such person, firm or corporation relating to such property or transfer or delivery and to furnish such other information relating to the same as he may be able and the department may require. Whenever the State Tax Commission shall require the attendance of any person, as herein provided, it shall issue a notice stating the time and place when such attendance is required, and shall transmit the same by registered mail, or cause a copy of the same to be given in hand, to such a person at least fourteen days before the date when such person is required to appear. If any person receiving such notice shall neglect or fail to attend or to give attendance so long as may be necessary, for the purpose for which the notice was issued, or refuse to furnish such books or papers or give such information, or if a corporation or firm whose officer or member is thus summoned refuses to permit him to produce such books, or papers, as are called for and are within the control of the corporation, or firm, such person, firm, or corporation shall be liable to a penalty of twenty-five dollars for each offense, which may be recovered by the State Tax Commission for the use of the State. Any person attending in response to summons as herein provided shall thereafter be entitled to the same travel and witness fees as are allowed to witnesses summoned to testify on behalf of the State in other cases. The State Tax Commission may commence an action for the recovery of any taxes assessable hereunder at any time after the expiration of one year from the death of the decedent.

Section 347.8. The amount of the estate taxes imposed by this Chapter and any deficiency in respect thereof shall be assessed within three years after the return is filed and no proceedings in court or assessment for the collection of such taxes shall be begun after the expiration of three years after the return is filed.

Section 347.9. Upon the failure to make and file with the State Tax Commission of Alabama the reports herein required of the legal representative of any estate against which a tax is required herein to be paid to the State of Alabama within twelve months from the qualification of the legal representative, such estate may be appraised and assessed for the estate taxes herein levied by the State Tax Commission and/or its authorized representative or agent who shall have full power and authority to require the production of all evidence that will enable it or its agent to determine the value of all property of any such estate subject to be taxed under this Chapter.

Section 347.10. The tax imposed on the estates under the provisions of this Chapter, after tentative notice and opportunity to protest, if return has been made as contemplated hereby, shall have full force and effect of a judgment on which execution may be issued by the State Tax Commission, and if a legal representative of any estate taxable under this Chapter fails to pay the amount assessed against such estate within six months after notice from the proper authorities as to the amount to be paid, or twelve months after the death of the decedent, whichever is later, provided that no extension be granted in respect to the whole or any part of the tax, the State Tax Commission is hereby authorized and it shall be its duty to issue execution directed to the sheriff of any county in the State of Alabama in which any of the property of the estate is located for the amount of such tax against said estate which execution shall be enforced by levy and sale and the amount due shall bear interest at the rate of 1% per month until paid.

Section 347.11. All expenses incurred by the State Tax Commission in the administration of this Chapter shall be paid out of the money collected under the provisions herein. The balance after deducting such expense shall be covered into the State General Fund.

Section 347.12. LIENS: The State of Alabama shall have a lien for all taxes and interest thereon which are or may become due hereunder on all property which a decedent dies seized or possessed of subject to taxes under this Chapter, in whatever form of investment it may happen to be, and all property acquired in substitution therefor.

Section 347.13. The tax hereby levied, being based and conditioned upon the levy of a similar tax by the United States, in the event that, after due return made the final assessment of the tax or final assessment as to the value of the estate for the purposes of such federal tax shall not have been arrived at when payment would otherwise become due or delinquent hereunder, then and in such event the time for payment of the tax due hereunder shall, on showing being made to the State Tax Commission, be extended until final agreement, determination or assessment of the tax or value of the estate for the determination of the tax shall have been made for purpose of such federal tax, provided, that the State Tax Commission may demand and require the payment of such amount of the tax as he may determine will not be in excess of the total tax that will be due the State of Alabama under this Chapter, as shown by the tax return made, when the final determination of the amount of the assessment of the tax shall have been made for federal tax purposes.

Section 347.14. Where appropriate returns are made and information supplied by the legal representative of any estate subject to the tax imposed hereby, the State Tax Commission shall make final assessment of the tax due in time to enable such legal representatives to make payment of the same and receive credit upon the federal tax. No interest or penalty shall accrue for any period prior to such final assessment. The State Tax Commission may adopt the valuation arrived at by the federal authorities, as the basis for the tax hereunder.

Section 347.15. In the event that the estate of any decedent taxable hereunder shall include property situated outside of the State, the proportion of the federal estate tax leviable hereunder against or in respect of the property of the estate subject to the tax imposed hereby shall be that proportion which the property of the estate within or subject to the tax jurisdiction bears to the gross value of the estate of the decedent not so subject to taxation.

Section 347.16. The Probate Judge of every county of the State, shall report to the State Tax Commission on forms provided for the purpose, every qualification as executor upon the estate of a decedent in such court. Such report shall be filed with the State Tax Commission not less than once every month, and shall contain the name of the decedent, the date of his death and the name and address of the executor.

Section 347.17. The administration of this Chapter is vested in and shall be exercised by the State Tax Commission, which shall prescribe the forms and reasonable rules of procedure in conformity with this Chapter for making returns and for ascertainment, assessment and collection of the taxes imposed hereunder.

Section 347.18. From any final assessment made by the State Tax Commission under this Chapter, an appeal may be taken by any party adversely affected thereby in the same manner as in other appeals from assessments made by the State Tax Commission, within thirty (30) days from the date of the final assessment.

## ARTICLE XIII.

### CHAPTER 1.

#### LICENSE SCHEDULE.

Section 348. Every person, firm, company, corporation or association, receiver or trustee, but not a governmental subdivision, engaged in any business, vocation, occupation, calling or profession herein enumerated, or who shall exercise any privilege hereinafter described for which a license or privilege tax is required, shall first procure a State license, and a County license when so required,

and shall pay for the same, or shall pay for the exercise of such privilege the amounts hereinafter provided and comply with all other provisions of this Act.

Schedule 1. Abstract companies and persons engaged in the business of furnishing abstracts of title, in towns or cities of one hundred thousand inhabitants or more, Seventy-Five Dollars (\$75.00); in towns or cities of fifty thousand inhabitants and less than one hundred thousand inhabitants, Fifty Dollars (\$50.00); in towns or cities of twenty thousand inhabitants and less than fifty thousand inhabitants Forty Dollars (\$40.00); in towns or cities of ten thousand inhabitants and less than twenty thousand inhabitants, Twenty-Five Dollars (\$25.00); in towns and cities of five thousand inhabitants and less than ten thousand inhabitants, Twenty Dollars (\$20.00); and in all other places whether incorporated or not, Ten Dollars (\$10.00). The payment of the license required by this Schedule shall authorize the doing of business only in the town, city or county where paid. Provided, that the foregoing schedule shall not apply to regular licensed practicing attorneys who furnish abstracts as a part of their general practice.

Schedule 2. Each professional actuary, auditor, or public accountant, **twenty-five dollars (\$25.00) to the State, but no license** shall be paid to the County. If such business is conducted as a firm or as a corporation in which more than one person above named is engaged, each person so engaged shall pay a license of twenty-five dollars (\$25.00).

Schedule 3. Each person manufacturing, acetylene gas and/or carbide shall pay the following license: In towns of over twenty-five thousand inhabitants or within five miles thereof, fifty dollars (\$50.00). All other places, whether incorporated or not, twenty-five dollars (\$25.00).

Schedule 4. Each person engaged in the business of selling adding machines, calculating machines, comptometers, billing machines, bookkeeping machines, cash registers, typewriters, or similar machines, shall pay the following annual privilege tax: In counties of over one hundred thousand inhabitants, one hundred dollars (\$100.00); in counties of over sixty thousand inhabitants and not over one hundred thousand inhabitants, sixty dollars (\$60.00); in counties of over forty thousand inhabitants and not exceeding sixty thousand inhabitants, forty dollars (\$40.00); in counties of forty thousand inhabitants or less, twenty-five dollars (\$25.00).

Schedule 5. Each adjuster of fire, automobile, property damage, collision, liability or other losses, twenty-five dollars (\$25.00) to the State, but no license shall be paid to the county. If such business is conducted as a firm or as a corporation in which more than one person is engaged, each person so engaged shall pay

the license provided for herein. The license paid in one county shall not be required to be paid in any other county in the State. Provided that this license tax shall not apply to any local insurance agent who adjusts losses for the insurance company which he regularly represents.

Schedule 6. Each person engaged in the business of selling or installing air-conditioning plants or equipment shall pay, in the county in which is located the principal office, an annual state privilege tax of \$100.00 and a county privilege tax of \$50.00. Provided, that in each other county in which said person engages in the business of selling or installing air-conditioning plants shall pay a state license of \$10.00 and a county license of \$5.00. Air-conditioning as used in this Schedule shall mean the artificial lowering or raising of temperature or supplying by artificial methods fresh air. Provided that no person subject to the provisions of this Schedule shall be required to pay the license levied hereunder in any county other than where he maintains a regular and established place of business for the purpose of selling and/or installing such air conditioning plants or equipment.

Schedule 7. For each person dealing in shot guns, rifles of .22 gauge or over, metallic ammunition and/or shot gun shells, whether principal stock in trade or not: In cities and towns of one hundred thousand inhabitants or over, fifty dollars (\$50.00); in cities and towns of less than one hundred thousand inhabitants and not less than thirty-five thousand inhabitants, thirty-five dollars (\$35.00); in cities and towns of less than thirty-five thousand and not less than seven thousand inhabitants, twenty-five dollars (\$25.00); in cities and towns of less than seven thousand inhabitants, and not less than one thousand inhabitants, fifteen dollars (\$15.00); in all other places whether incorporated or not, (\$5.00) Five Dollars.

Schedule 8. Owners and operators of permanent amusement parks which shall be open for the public for not more than five months of each year may be exempted from payment of the license or privilege taxes on amusements or entertainments licensed by this Act, provided they take out and pay for a license to operate a permanent amusement park at the following rates to-wit: In cities or towns of less than five thousand inhabitants, or within five miles thereof, twenty-five dollars (\$25.00); in cities or towns of five thousand inhabitants and less than fifteen thousand inhabitants, or within five miles thereof, fifty dollars; in cities of fifteen thousand and less than twenty-five thousand inhabitants, or within five miles thereof, one hundred dollars (\$100.00); in cities of twenty-five thousand or more inhabitants or within five miles thereof, two hundred dollars (\$200.00). The provision of this Act permitting the payment of a half year license after April



1st shall not apply to this Schedule. Provided no license shall be paid under this section by any town or city which itself owns and operates an amusement park.

Schedule 8.1. Each owner or lessee of a baseball park where admission fees are charged, in cities or towns of less than ten thousand inhabitants, or within five miles thereof, ten dollars; in cities or towns of ten thousand and less than twenty-five thousand inhabitants, or within five miles thereof, twenty-five dollars; in cities and towns of twenty-five thousand inhabitants and less than fifty thousand inhabitants or within five miles thereof, fifty dollars; in cities and towns of fifty thousand inhabitants or more, or within five miles of any such city or town, one hundred dollars; provided that when baseball is allowed by law to be played in any city or town on Sunday, the license therefor in such city or town shall be double the amount hereinbefore named; provided that this schedule shall not apply to baseball parks owned or maintained in good faith by educational institutions located in this State; provided that the provisions of this act permitting the payment of a half-year license after April first shall not apply to this schedule.

Schedule 9: Each architect practicing his profession for the public shall pay to the State a license tax of **Twenty-Five Dollars** (\$25.00), but no license shall be paid to the county. If such business is conducted as a firm or as a corporation, in which more than one person above named is engaged, each person so engaged shall pay the amount provided above.

Schedule 10. Each attorney engaged in the practice of law shall pay an annual license of **Twenty-Five Dollars** (\$25.00) to the State, but no license shall be paid to the County. If such business is conducted as a firm, or as a corporation in which more than one lawyer is engaged, each lawyer so engaged shall pay a license; provided, that the license imposed by this Schedule shall not apply until such attorney shall have practiced his or her profession as long as two (2) years. Ten Dollars (\$10.00) of the license herein levied together with the fees paid by applicants as otherwise provided by law, shall remain in the State Treasury and shall constitute a separate fund to be disbursed by the State Treasurer on the order of the Board of Commissioners of the Alabama State Bar Association. As soon after the first day of October in each year as practicable the State Treasurer shall certify to the Secretary of the Board of Commissioners of the Alabama State Bar Association the names of attorneys who have paid such license fee, and no attorneys who are in default in the payment of such fee shall be recognized in the voting or transaction of business by the State Bar as being in good standing. Provided, however, that no lawyer shall be required to pay a license until after he has practiced his profession for two years.

Schedule 11. Auctioneers in any town or city of twenty thousand inhabitants or more or within five miles thereof, fifty dollars (\$50.00); in towns or cities of eight thousand inhabitants and less than twenty thousand or within five miles thereof, thirty dollars (\$30.00); in cities or towns of five thousand and less than eight thousand inhabitants or within five miles thereof, twenty dollars (\$20.00); in cities or towns of less than five thousand (5,000) inhabitants or within five (5) miles thereof, ten dollars (\$10.00); the term "auctioneer" within the meaning of the foregoing provisions shall be deemed to apply to any person selling real estate, goods, wares, merchandise or livestock or other things of value at public outcry except as herein otherwise provided whether a charge is made for same or not. The payment of the license above required shall authorize the doing of business only in the county where paid. Each transient or itinerant auctioneer shall pay one state license of fifty dollars (\$50.00), and in addition a county license of twenty-five dollars (\$25.00) in each county where he sells by auction. In the following cases sales at public outcry may be made for compensation without license: (a) Sales for the estate of a decedent by the personal representative, or his agent, according to law or by the provisions of the will. (b) Sales of property conveyed by deed of trust, mortgage, or decree, or ordered to be sold according to the mortgage, decree or order. (c) Sales of all agricultural produce and livestock produce arising from the labor of the seller or other labor under his control on or belonging to his real or personal estate and not purchased or sold on speculation. (d) All sales under legal process.

Schedule 12. Upon each and every agent of and/or dealer in, and upon every person soliciting orders for the sale or purchase of automobiles, motor cars, or other self propelled vehicles, except motorcycles, and except any person regularly employed by a said agent of, and/or dealer in, which said agent of, or dealer in, has paid the privilege tax or license herein provided for, the following privilege or license tax shall be levied and collected, for each place of business, to-wit: In cities or towns having a population under Twenty-five hundred people or less, Fifty Dollars (\$50.00). In cities or towns having a population over Twenty-five hundred and less than Five thousand, Seventy-Five Dollars (\$75.00); in cities or towns having a population of over Five thousand and less than Ten thousand, One Hundred Dollars (\$100.00); in cities or towns having a population of over Ten thousand and less than twenty-five thousand, One hundred and twenty-five Dollars (\$125.00); in cities or towns having a population of over twenty-five thousand and less than fifty thousand, One hundred and fifty Dollars (\$150.00); in cities or towns having a population of over fifty thousand, Two hundred Dollars (\$200.00).

Provided that upon payment of the license according to the foregoing schedule, a dealer in automobiles may do a general automobile and automotive business and not be required to pay any further or additional state and county licenses to handle or sell automobile, accessories and parts, radios, tires and batteries, or for the operation of a garage for storage where a charge is made, or for the repair of painting of motor vehicles or trucks. Provided further that the automobile dealer who has a license under this Schedule shall be permitted to purchase one demonstration tag for each salesman he employs, but in no event more than 20 at a cost of one dollar each. Provided further that all licensed dealers must on the first, tenth and twentieth of each month report their sales of new cars and trucks to the Probate Judge in their counties on affidavit forms to be furnished by the Tax Commission. Failure to report these sales as provided herein shall constitute a misdemeanor, and shall upon conviction be punished by a fine of not less than \$5.00 nor more than \$100.00. Provided that such demonstration tags are used for demonstrating new and used passenger cars and trucks and that such demonstrations can be made at any time or on any day or night and that the prospective purchaser **can make demonstration to his satisfaction without the salesman being in attendance.**

Schedule 13. For garages or shops where automobiles are repaired, painted, trimmed or welded for the public: Each shop where the work is done by one man, five dollars (\$5.00); each shop where the work is done by two men, ten dollars (\$10.00); each shop where the work is done by more than two men shall pay a license of ten dollars (\$10.00), and an additional license of five dollars (\$5.00) for each workman in excess of two so employed. Where garage or shop owners do work in shops they shall be counted as workmen. Provided the maximum number of men employed at any time during the license year shall be the basis of computing the license due.

Schedule 14. For each garage where charge is made for the storage of motor vehicles there shall be a license of two (\$2.00) Dollars for each one thousand square feet or fraction thereof up to fifty thousand square feet. On each one thousand square feet or fraction thereof in excess of fifty thousand square feet, the license tax shall be One (\$1.00) Dollar on each additional square footage of space.

Schedule 15. For each lot or place other than a storage garage where a charge is made for storage of motor vehicles shall pay the following annual license: For each one thousand square feet or major fraction thereof up to fifty thousand square feet One Dollar (\$1.00); for each one thousand square feet or fraction thereof; on each one thousand square feet or major fraction thereof in

excess of fifty thousand square feet the license tax shall be fifty cents (.50 cents) on each additional one thousand square feet or fraction thereof.

Schedule 16. Each person selling motor vehicle accessories, including automobile radios, and/or motor vehicle parts, and/or tires, shall pay the following annual license: In cities of over one hundred thousand (100,000) inhabitants, forty dollars (\$40.00); in cities of over twenty-five thousand (25,000) inhabitants and not over one hundred thousand (100,000) inhabitants, thirty dollars (\$30.00); in cities and towns of over five thousand (5,000) inhabitants and not over twenty-five thousand (25,000) inhabitants, twenty dollars (\$20.00); in cities and towns of over two thousand (2,000) inhabitants and not over five thousand (5,000) inhabitants, ten dollars (\$10.00); in all other places whether incorporated or not five dollars (\$5.00). Provided regularly licensed filling stations or garages are not required to pay the above accessories license if their stock of accessories at any time does not exceed the wholesale value of Seventy-five dollars (\$75.00).

Schedule 17. Retreading or tire rebuilding shops where motor vehicle tires are retreaded, twenty dollars (\$20.00).

Schedule 18. Each person engaged in the business of operating a barber shop shall pay a license fee of two and one-half dollars (\$2.50) for each chair.

Schedule 19. Each person, other than the original bona fide owners, selling goods, wares or merchandise as an insurance, bankruptcy, mortgage, insolvent, assignee's, executor's, administrators, receivers', trustee's, removal or closing out sale, or a sale of goods, wares and merchandise damaged by fire, smoke, water, or otherwise, shall pay a license of One Hundred Dollars (\$100.00). The provisions of this Schedule shall not apply to sheriff, constables, or other public or court officers, or to any other persons acting under the license, discretion or authority of any court, state or federal, selling goods, wares or merchandise in the course of their official duties.

Schedule 20. Each battery shop for the repairing, recharging or selling batteries in cities and towns of over sixty thousand inhabitants, twenty dollars (\$20.00); in cities and towns of fifteen thousand inhabitants and not over sixty thousand inhabitants, fifteen dollars (\$15.00); in cities and towns of five thousand and not over fifteen thousand inhabitants, ten dollars (\$10.00); in all other places whether incorporated or not, five dollars (\$5.00).

Schedule 21. Each person operating what is generally known as a Beauty Parlor, or other place where hair dressing, facial treatments, manicuring, or hair waving is done shall pay a license of ten dollars (\$10.00) and for each operator so employed, as follows: In cities of more than sixty thousand (60,000) inhabitants,

six dollars (\$6.00). In cities of less than sixty thousand (60,000) inhabitants and all other places whether incorporated or not, four dollars (\$4.00). This schedule of fees shall apply to beauty parlor colleges where said colleges engage in beauty parlor work for which a charge is made or material used is charged therefor.

Schedule 22. For engaging in the business of dealing in, renting or hiring bicycles and/or motorcycles, in cities of twenty thousand inhabitants or over, fifteen dollars (\$15.00); in cities of ten thousand inhabitants and less than twenty thousand inhabitants, ten dollars (\$10.00); in all other places whether incorporated or not, five dollars (\$5.00). Each dealer may purchase dealer's tags, not to exceed five for any company or firm at a cost of one dollar (\$1.00) each. Use of these tags for other than demonstration shall constitute a misdemeanor and upon conviction shall be punished by fine not less than five dollars (\$5.00), or more than one hundred (\$100.00).

Schedule 23. All bill posting and advertising companies displaying advertisement in public places, including street cars and each person engaged in the business of advertising or bill posting: In counties having 200,000 inhabitants or over one hundred and fifty dollars (\$150.00); in counties of less than 200,000 inhabitants and as many as 100,00 inhabitants one hundred and twenty-five dollars (\$125.00); in counties of less than one hundred thousand inhabitants and as many as seventy-five thousand inhabitants one hundred dollars (\$100.00); in counties of less than 75,000 inhabitants and as many as 50,000 inhabitants fifty dollars (\$50.00); in counties of less than fifty thousand inhabitants and as many as thirty thousand inhabitants twenty-five dollars (\$25.00); in counties of less than thirty thousand inhabitants fifteen dollars (\$15.00).

Schedule 24. Each person engaging in the business of making blue prints or developing same from tracings or drawings for pay shall pay a license for engaging in such business, fifteen dollars (\$15.00).

Schedule 25. Each person engaged in the business of making bonds and charging for the same, except guaranty companies or corporations otherwise specifically licensed, one hundred dollars (\$100.00) per annum. The payment of the license required by this schedule shall authorize the doing of business only in the town, city or county where paid. And that no person engaged in the business of making bonds and charging for the same shall be exempt from paying said license.

Schedule 26. Every person producing, bottling and/or distributing in bottles or other closed containers soda water, coca-cola, pepsi-cola, chero-cola, ginger-ale, grape and other fruit juices or imitation thereof, near beer, carbonated or malt or cereal beverages and all light preparations known as soft drinks, shall not

use any machine, machines and/or apparatus for the filling or bottling of the same until such person, shall have first applied for, paid for and obtained in advance from the Probate Judge a license, the fee for which, for each machine, shall be graded or proportioned as follows: 36 spouts, or greater capacity, low pressure filler, Seven Hundred Dollars (\$700.00). 32 spouts and less than 36 spouts, low pressure filler, Five Hundred and Seventy-five Dollars (\$575.00). 24 and less than 32 spouts, low pressure filler, Four Hundred Dollars (\$400.00). 18 and less than 24 spouts, low pressure filler, Two Hundred and Seventy Dollars (\$270.00). 12 and less than 18 spouts, low pressure filler, One Hundred and Ninety Dollars (\$190.00). Less than 12 spouts, low pressure filler, Ninety Dollars (\$90.00). Royal (8-head), Shields (6-head), Adriance (6-head) or other high pressure equipment having manufacturer's rating capacity of over sixty bottles per minute, Seven Hundred Dollars (\$700.00). Royal (4-head), Adriance (2-head), Shields (2-head), full equipment having manufacturer's rating capacity of over fifty and not more than sixty bottles per minute, Five Hundred and Twenty Dollars (\$520.00). Royal (4-head), Adriance (2-head), Shields (2-head), (full automatic) or other high pressure equipment having manufacturer's rating capacity of more than forty and not more than fifty bottles per minute, Four Hundred and Twenty Dollars (\$420.00). Dixie (automatic), Shields (20-head hand feed), Adriance (1-head), Calleson (1-head), Senior (high-pressure), Junior (high-pressure) or Burns or other high-pressure equipment having manufacturers' rating capacity of more than twenty-four bottles and not more than forty bottles per minute, One Hundred and Ninety Dollars (\$190.00). Single-head Shields, Modern Bond (power), Baltimore (Semi-automatic), and all other machines or equipment having manufacturer's rating capacity of not more than twenty-four bottle per minute and all foot-power bottling machines, Sixty Dollars (\$60.00). Provided, that any bottling machine or apparatus not herein specifically mentioned shall bear the same tax as a bottling machine or apparatus of the nearest rated capacity as herein enumerated; provided, further, that where any person has within his bottling plant or place of manufacture more than one bottling machine then such person shall pay the license herein specified upon every such bottling machine or apparatus whether in actual operation or not. The person applying for such license shall file an application, under oath, stating the name, make, model of his machine, name and address of manufacturer, whether it be low-pressure equipment or high-pressure equipment or otherwise and give its spout and/or bottling capacity.

Schedule 27. For bowling alleys or tenpin alleys for the use of which money or other compensation is charged, ten dollars (\$10.00) for each alley.

Schedule 28. For each person, other than a merchant paying an ad valorem tax on his stock of goods, who shall as agent or broker, sell iron, railway supplies, furnace supplies, mining supplies, shall pay a privilege tax of twenty-five dollars (\$25.00).

Schedule 29. For each commission merchant or merchandise broker in cities of fifty thousand inhabitants or over, fifty dollars (\$50.00); in cities and towns of twenty-five thousand and less than fifty thousand inhabitants, thirty-five dollars (\$35.00); in cities and towns of ten thousand and less than twenty-five thousand inhabitants, twenty-five dollars (\$25.00); in cities and towns of five thousand and less than ten thousand inhabitants, fifteen dollars (\$15.00); in cities and towns under five thousand inhabitants, whether incorporated or not, ten dollars (\$10.00).

Schedule 30. Each person operating a manufactory plant for the making of brooms, brushes, mops or similar articles, ten dollars (\$10.00). Providing this shall not apply to blind persons. Provided said license shall not apply where not more than three persons are employed for the making of said brooms.

Schedule 31. Each person selling, distributing and/or using carbonic acid gas or any substitute therefor, for any purpose, shall pay a privilege license tax equal to two cents on each pound of carbonic acid gas or any substitute therefor sold, distributed and/or used. Each person selling, distributing and/or using carbonic acid gas or any substitute therefor, shall, at the end of each calendar quarterly period make report on oath to the State Tax Commission in the manner and upon forms required by it, the number of pounds of carbonic acid gas or any substitute therefor, sold, distributed and/or used by him during the preceding quarter and at the same time pay the amount of tax due on the number of pounds so sold, distributed and/or used. In addition to any other requirements each person selling and/or distributing carbonic acid gas or any substitute therefore shall show on each report the name of each person to whom carbonic acid gas or any substitute therefor was sold and the number of pounds so sold and/or distributed and the date of each sale or distribution. Every person using for any purpose carbonic acid gas or any substitute therefor upon which the tax levied in this Schedule has not been paid by the seller or distributor shall make report on oath, at the end of each calendar quarterly period to the State Tax Commission in the maner required by it, the number of pounds of carbonic acid gas or any substitute therefor purchased or acquired during the preceding quarter stating the date of each transaction, from whom

purchased or acquired, the address or location of such person and the number of pounds so purchased or acquired in each transaction and at the same time pay the tax levied by this Schedule. If the reports and payment of tax required by this Schedule are not made within thirty days after due date a penalty of double the amount of the tax due shall be assessed and collected. No additional license or tax on carbonic acid gas or substitute therefor, shall be charged or levied by any county. One-third of said license shall be paid by the State to the county in which said bottling works is located.

Schedule 32. Each retail dealer in cigars, cheroots, stogies, cigarettes, smoking tobacco, chewing tobacco or snuff, or any substitute therefor, either or all, shall pay to the State the following Privilege License: In cities of twenty-five thousand inhabitants and over, Fifteen Dollars, (\$15.00); in cities or towns of ten thousand inhabitants and less than twenty-five thousand inhabitants Ten Dollars, (\$10.00); in cities or towns of five thousand inhabitants and less than ten thousand inhabitants, Five Dollars (\$5.00); in cities or towns of two thousand inhabitants and less than five thousand inhabitants, Three Dollars (\$3.00); in all other places whether incorporated or not, Two Dollars, (\$2.00). This privilege license is levied on each place of business owned or operated by retail dealers, whether under the same roof or not. The phrase "retail dealer" as used in this Schedule shall include every person, firm, corporation, club, or association, other than a wholesale dealer as defined in Schedule 33 of this Section, who shall sell and/or store or offer for sale any one or more of the articles enumerated herein, irrespective of quantity or amount, or the number of sales. The privilege license herein levied shall be in addition to the sales tax as provided in Schedule 159.

Schedule 33. Each wholesale dealer in cigars, cheroots, stogies, cigarettes, smoking tobacco, chewing tobacco, snuff or any substitute therefor, either or all, shall pay one privilege to the State of One Hundred Dollars (\$100.00), and Five Dollars (\$5.00) to each county in which such wholesale dealer does business. The phrase "wholesale dealer" as used in this Schedule shall include persons, firms, corporations, clubs, or associations who shall sell and/or store, or offer to sell any one or more of the articles enumerated herein to retail dealers for the purpose of resale only. The privilege license herein levied shall be in addition to the sales tax as provided in Schedule 159.

Schedule 34. Each person operating a circus shall pay for each day's exhibition, where the seating capacity of the circus is less than two thousand, fifty dollars (\$50.00); where the seating capacity is two thousand and less than four thousand, one hundred dollars (\$100.00); where the seating capacity is four thousand or



more, two hundred dollars (\$200.00); and the license herein above provided shall include the license for a menagerie accompanying the circus. For each day's exhibition of each side show accompanying such circus, and for each merry-go-round or flying jenny accompanying such circus, or any other device or exhibition operated for profit, ten dollars (\$10.00) per day; and all such license or licenses, when paid, shall be kept or deposited with the door-keeper or ticket receiver, whose duty it shall be to exhibit the same on demand to the State or County license inspector or deputy, and it shall be the duty of such officer or officers to call on such door-keeper, gate-keeper, or ticket receiver and inspect the license or licenses taken out for such circus, show, exhibition or merry-go-round, before the performance begins, and if the proper license or licenses have not been taken out and paid for as hereinabove provided, to prohibit such circuses, exhibition or performance until the proper license is taken out in accordance with the provisions of this Schedule and it shall be the duty of such officer or officers to arrest the owner, proprietor or manager, or other party or parties in charge of such circus, exhibition or menagerie, who shall give such exhibition without the payment of the license herein required, and take him before the proper court, for the trial of such offense, and any such officer failing to perform the duties herein required of him, is guilty of a misdemeanor; Provided that this tax shall be in addition to that levied by Schedule 41. Provided that to the end that there may be no double taxation or license charged by this State, that the terms of this Act shall not apply to the operation or conduct of any street fair or carnival for the first four weeks' rehearsal performances after closing of winter quarters in this State, owned by any citizen of this State or by any corporation organized under the laws of this State and having its principal situs in Alabama and maintaining its permanent winter quarters in Alabama, whose property is subject to and pays to the State of Alabama a tax on its real and personal property under any law of this State.

Schedule 35. Each person conducting what is commonly known as a cleaning or pressing business where wearing apparel is cleaned and/or pressed shall pay a license of five dollars in all places of less than ten thousand inhabitants, whether incorporated or not; in cities or towns of ten thousand inhabitants and less than fifty thousand inhabitants, ten dollars (\$10.00); in cities of fifty thousand inhabitants or more, fifteen dollars (\$15.00). Provided where dyeing is done singularly or in conjunction with the cleaning and pressing business ten dollars (\$10.00) additional. Provided further, that each place maintained or operated for the reception or collection of such articles and not at the location of such pressing, clean-

ing or dyeing plant paying a license as such shall pay a license of five dollars (\$5.00). Provided that a person not having a place of business within the State of Alabama where such work is actually performed, shall pay a license of fifteen dollars (\$15.00) for the reception and collection of such articles.

Schedule 36.1. Each person dealing in coal or coke and maintaining one or more established yards, with adequate wagon or truck scales, from which yard or any yard of an established dealer, all retail deliveries are loaded, in cities or towns of five thousand (5,000) inhabitants or less, whether incorporated or not, five dollars (\$5.00); in cities of more than five thousand (5,000) and not more than twenty thousand (20,000) inhabitants, ten dollars (\$10.00); in cities of more than twenty thousand (20,000) inhabitants, twenty dollars (\$20.00) for each yard. This Schedule shall not apply to persons whose inventory and sales are in quantities of less than one-half ton. Each such person shall, within thirty days after the approval of this Act and annually thereafter at the time of paying for and procuring his dealers license, register with the officer in the county collecting and issuing licenses the number of trucks to be operated from his one or more yards and shall at the time of such registration pay a fee of one dollar (\$1.00) per truck for each truck so used, and shall procure a tag for each truck, showing the year for which it issued, the registration number, and the term "Coal-Coke Dealer or Hauler," and the abbreviation of Alabama, and such tag shall at all times be conspicuously displayed next to the regular license tag on all trucks engaged in this business. The dimensions of this tag shall be not less than four inches by eight inches, and it shall be of a color different from the then current license tag. The registration fee herein provided shall be in addition to the regular motor vehicle license fee.

Schedule 36.2. Each person, other than those qualifying under Section 1 of this Schedule, engaged in selling, distributing, or hauling or delivering coal or coke by truck or other vehicle, whether as dealer, employee, agent, broker, sales agent or mining company who sells, or hauls or delivers direct from mine or plant to consumer shall pay a privilege license on the first truck or other vehicle used in said business of fifteen dollars (\$15.00), and on each additional truck or vehicle \$3.00, but the provisions of this schedule shall not apply to persons whose inventory and sales are in quantities of not more than one ton, and in no event shall this license be issued for less than one year, such license to be in addition to the regular motor vehicle license. Each such person shall register each truck or other vehicle so used in such business in the county in the office collecting and issuing license. When such trucks are

registered and all license requirements complied with, a tag as above described shall be issued for each truck or other vehicle, and such tag shall at all times be displayed next to the regular license tag on all trucks or other vehicle in such business.

Schedule 37. Each manufacturer of coffins and/or caskets, one hundred dollars (\$100.00). Provided this license shall not apply to any person who manufactures coffins or caskets without the assistance of any other person or without the assistance of hired labor and which coffins or caskets retail for not exceeding ten dollars (\$10.00). Provided this Schedule shall not apply to local wood-working plants or carpenter shops whose principal business is not the manufacturing of coffins or caskets and who make coffins for paupers for local governing bodies or for charity.

Schedule 38. Each dealer in coffins or caskets, and each agent or person taking or soliciting orders for retail deliveries of coffins or caskets, in unincorporated places or towns of one thousand inhabitants or less, ten dollars (\$10.00); in towns and cities of over one thousand inhabitants and not exceeding seven thousand inhabitants, twenty dollars (\$20.00); in cities of over seven thousand and not exceeding thirty-five thousand inhabitants, fifty dollars (\$50.00); in cities of over thirty-five thousand inhabitants, one hundred dollars (\$100.00).

Schedule 39. Each collection agency in towns and cities of twenty thousand or more inhabitants, one hundred dollars (\$100.00); in towns and cities of less than twenty thousand inhabitants, twenty-five dollars (\$25.00). Each person who shall employ agents to solicit claims for collection from persons, firms or corporations in the State, shall be deemed a collection agency within the meaning of this Schedule.

Schedule 40. For each person operating any compress for the purpose of compressing cotton: For each compress compressing not more than twenty thousand (20,000) bales of cotton per annum, seventy-five dollars (\$75.00); for each compress compressing more than twenty thousand (20,000) bales of cotton and less than fifty thousand (50,000) bales of cotton per annum, one hundred dollars (\$100.00); for each compress compressing fifty thousand (50,000) bales or more of cotton per annum, two hundred and fifty dollars (\$250.00). Such tax to be measured by the number of bales of cotton compressed during the previous year. Each person applying for such license shall file with the Probate Judge a sworn statement showing the number of bales compressed during the preceding year. Provided a person beginning the operation of a new compress shall be liable for the minimum license herein levied for the first year.

Schedule 41. For each concert, musical entertainment, public lecture, or other public entertainment where charges are made for

admission, or for the use of any instrument or device or the participation in any exercises or entertainment not given wholly for charitable, school or religious purposes, and not otherwise provided for, ten dollars (\$10.00); but this provision shall not apply to exhibitions or entertainments given in theaters when the owners or managers thereof have taken out license as owner or manager, and provided further that this license shall not be charged for any lecture course given as part of the course of instruction in any educational institution; provided further that the provisions of this Schedule shall not apply to chautauquas, lecture lyceums, or exhibits held under the auspices of religious or charitable associations. In all cases where such exhibitions shall be in the nature of a continuous show or performance, the license shall be five dollars (\$5.00) per day, fifteen dollars (\$15.00) per week, or thirty dollars (\$30.00) per month.

**Schedule 42. CONSTRUCTION COMPANIES OR CONTRACTORS.**—Any person, firm or corporation accepting orders or contracts for doing any work on or in any building or structure, requiring the use of paint, stone, brick, mortar, wood, cement, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead, electric wiring, or other steel, or any other building material, or shall accept contracts to do any paving or curbing on sidewalks or streets, public or private property, using asphalt, brick, stone, cement, wood or other composition, or who shall accept an order for or contract to excavate earth, rock or other material for foundations or any other purpose, or who shall accept an order or contract to construct any sewer of stone, brick, terra cotta, or other material, or shall accept a contract to construct highways, bridges, dams, or railroads, shall be deemed a contractor. Every contractor shall procure from the probate judge of the county in which he has his principal office a license to carry on the business of a contractor, provided that if such contractor has no such office in this state, then he shall procure such license from the probate judge of the county where the contract is to be performed. Every such contractor shall pay a license to be ascertained in the following manner: If the gross amount of all orders or contracts accepted aggregate five thousand dollars and not exceeding ten thousand dollars, he shall pay the sum of ten dollars; if the amount of such orders or contracts is more than ten thousand dollars and does not exceed twenty thousand dollars, fifteen dollars; if the amount of such orders or contracts exceeds twenty thousand dollars and does not exceed fifty thousand dollars, twenty-five dollars; if the amount of such orders or contracts exceeds fifty thousand dollars and does not exceed one hundred thousand dollars, fifty dollars; if the amount of such orders or contracts exceeds one hundred thousand dollars and does not exceed one hundred and

fifty thousand dollars; one hundred and fifty dollars; if the amount of such orders or contracts exceeds one hundred and fifty thousand dollars and does not exceed two hundred thousand dollars, two hundred dollars; if the amount of such orders or contracts exceeds two hundred thousand dollars, two hundred and fifty dollars; and when such contractor shall have obtained a license for any year for which he has paid a license tax of less than the maximum above prescribed he shall not accept any contract or contracts during such year, the aggregate amount of which exceeds the maximum amount for which his license was obtained, unless and until he shall have paid such additional sum as will make the total license tax paid by him for that year sufficient to cover the aggregate amount of such contract or contracts as prescribed above; and unless he pays such additional sum he shall be deemed to be acting without a license. The payment of the license in one county in the State, as evidenced by the license or official certificate of the probate judge, shall be sufficient.

Schedule 43. Each person whose principal business is buying cotton, shall pay one State license of twenty-five dollars (\$25.00), and shall also pay a license of ten dollars (\$10.00), in each county in which such person shall maintain an office or buy cotton.

Schedule 44. Each person inquiring into and reporting upon the credit and standing of persons, firms, or corporations in this State, shall pay to the State a license of two hundred dollars (\$200.00) for each place of business maintained in this State, and shall also pay a license of fifty dollars (\$50.00) to each county in which such person maintains an office or established place of business, except that persons, firms, corporations or associations organized and conducted as a local credit reporting company or adjustment bureau, inquiring into and reporting to the wholesale and retail trade of the city where their office is maintained, as such, shall pay to the State a license of fifty dollars (\$50.00) and to the county a license of twenty-five dollars (\$25.00) in cities of twenty-five thousand inhabitants or more, and in other places, whether incorporated or not, twenty-five dollars (\$25.00) to the State and twelve dollars and fifty cents (\$12.50) to the county. Provided that this schedule shall not apply to mutual trade organizations where credit information is exchanged between members at actual cost of service.

Schedule 45. Each person engaged in operating a creosoting, or other preservative treatment, plant where cross ties, cross arms, poles or other timbers are creosoted, one hundred dollars (\$100.00) for each plant.

Schedule 46. Deeds, bills of sales, etc. No deed, bill of sale or other instrument of like character which conveys any real or personal property within this state, or which conveys any inter-

est in any such property, except the transfer of mortgages on real or personal property within this State upon which the mortgage tax has been paid, deeds or instruments executed for a nominal consideration for the purpose of perfecting the title to real estate, and deeds and other instruments or conveyances, executed prior to October 1, 1923, shall not be received for record unless the following privilege or license tax shall have been paid upon such instrument before the same is offered for record to-wit: Upon all such instruments which are executed to convey real or personal property situated in this State of the value of five hundred dollars (\$500.00) or less there shall be paid the sum of fifty cents (\$0.50), and upon all such instruments executed to convey real or personal property situated in this State of more than five hundred dollars (\$500.00) in value there shall be paid the sum of fifty cents (\$0.50) for each five hundred dollars (\$500.00) or fraction thereof in value of property conveyed by such instrument. Provided that only the value in excess of any mortgages or vendors lien upon any property within this State on which the mortgage tax has been paid, shall be taxable under this Schedule, and provided, further, that where several deeds or instruments are executed by tenants in common for the same consideration, only one of such instruments shall be taxable under this Schedule. Upon the presentation of any such instrument for record the Judge of Probate shall determine the amount of tax due thereon and upon the payment to him of the amount of such tax and recording fee of the Judge of Probate he shall accept the same for record; provided, however, that upon the presentation for record of any instrument which conveys property situated in two or more counties of this State, the Judge of Probate shall certify the facts of the case together with a description of the property conveyed by such instrument to the State Tax Commission, who after hearing such evidence as may be offered, or as it may secure, shall fix and determine the value of such property as located in each county and shall certify their determination thereof to the Judge of Probate, showing the value of such property in each county separately, and upon the payment to the Judge of Probate of the tax due on the value of all property in this State conveyed by such instrument as so determined the Judge of Probate shall accept such instrument for record. The person presenting any such instrument conveying property in two or more counties of this State may secure immediate filing of such instrument for record by depositing with the Judge of Probate, to be held by him until the amount of the tax due thereon is determined, an amount which in the judgment of the Judge of Probate will cover the tax herein provided for, and after the value of the property conveyed thereby is determined by the

State Tax Commission, as provided herein, any excess of such deposit over the amount of tax found to be due on such instrument shall be refunded to the person offering such instrument for record. The determination by the Judge of Probate and of the State Tax Commission of the amount of tax due on any such instrument is hereby declared to be a ministerial act and shall not preclude the subsequent collection of the correct amount of tax if the value of the property thereby conveyed is not fully disclosed to the Judge of Probate or the State Tax Commission when such instrument is offered for record. Upon the filing for record of any instrument coming within the terms of this schedule the Judge of Probate shall certify thereon the fact that the tax thereon has been paid showing the amount of such tax, and thereafter such instrument shall be received for record in any county of this State without the payment of any further tax thereon, except the fee of the Judge of Probate for recording such instrument, which certificate shall be recorded with and as part of such instrument.

Of the tax collected by the Judge of Probate under the provisions of the Schedule there shall be paid into the State Treasury two-thirds of the amount so collected and the remaining one-third shall be paid into the County Treasury; provided, however, that the counties' share of the tax collected on any instrument conveying property in more than one county shall be paid into the County Treasuries of the counties in which such property is situated in proportion to the value of such property as determined by the State Tax Commission as herein provided. The Judge of Probate shall receive two and one-half per cent of the amount collected by him under the provisions of this Schedule as his commission for collecting said money and certifying said instruments, which shall be deducted from the total amount collected and retained by him when making settlement of his collections as required by law. Provided, however, that this Schedule shall not be so construed or enforced as to require the payment of privilege tax herein provided on mortgages, deeds of trust or other instruments in the nature of a mortgage or deeds or other instruments with vendors lien except as to that part of the purchase price, which is paid in cash or other articles of value and which pay no other privilege tax for recording. Provided that in counties where the Probate Judges are paid salaries the fee or commission collected or retained by the Probate Judges for collecting the tax herein provided for shall be paid by them into the Treasury of their respective counties.

Schedule 47. Each delicatessen where cooked foods are sold for consumption other than on the premises, ten dollars (\$10.00).

Schedule 48. Each person practicing the profession of dentistry in cities or towns of over twenty-five thousand inhabitants

shall pay an Annual License of \$25.00; In cities or towns of twenty five thousand inhabitants and more than five thousand inhabitants shall pay \$15.00; In cities or towns of five thousand and more than one thousand inhabitants \$10.00; In all other places whether incorporated or not \$5.00; but no license shall be paid the county. If such business is conducted as a firm or as a corporation in which more than one dentist is engaged, each dentist so engaged shall pay the license as above stated, provided that the license imposed by this Schedule shall not apply until such dentist shall have practised his profession as long as two years.

Schedule 49. Each person engaged in the business of operating a detective agency, or each company or corporation doing business as such in this State, one hundred dollars (\$100.00). Each person so engaged who also solicits or receives notes or accounts for collection shall pay an additional license of one hundred dollars (\$100.00).

Schedule 50. Each person engaged in the business of developing and printing kodak plates or films, or camera plates or films, or other protographic films or plates, five dollars (\$5.00). Provided this license shall not be applicable to any person paying the photographers license levied by this Act.

Schedule 51. For each device used by persons as a source of profit to themselves, such as throwing at wooden figures, or any object of like character, striking at an object to test the strength, blowing to test the lungs, or other devices of life character, or for operating a cane rack, a knife rack, or similar rack or table, twenty-five dollars (\$25.00). to be paid in each county in which it is operated, but this Schedule shall not be construed to legalize the operation of any device which is now prohibited by law.

Schedule 52. For each dealer in dice, ten dollars (\$10.00).

Schedule 53. Each person compiling, selling or offering for sale directories shall pay to the State license taxes as follows: For each city or town of one hundred thousand inhabitants or over, one hundred and fifty dollars (\$150.00); in cities or towns of fifty thousand and less than one hundred thousand inhabitants seventy-five dollars (\$75.00); in cities or towns of twenty thousand and less than fifty thousand inhabitants, fifty dollars (\$50.00); in cities and towns of less than twenty thousand inhabitants, fifteen dollars (\$15.00; provided that this Schedule shall not apply to directories issued by any person in connection with or as a part of a business for which business a general license tax is provided.

Schedule 54. Every dog, horse, and pony show where admission is charged shall be considered a circus, and shall pay one-half the license required by this Chapter for a circus; provided that the license shall in no case be less than twenty-five dollars (\$25.00)



and every exhibition of athletic or acrobatic feats or of horsemanship, in every building, tent, space or area shall be regarded as a circus, provided that this schedule shall not apply to such exhibition in a theater paying theatrical license, nor shall it apply to athletic games, exhibitions or contests by students of any school or college.

Schedule 55. Every public dance hall, whether or not a charge is made for dancing and whether operated in connection with any other business or not, shall pay the following privilege or license tax: In incorporated cities and towns or within the police jurisdiction thereof, twenty-five dollars (\$25.00). In all other places whether incorporated or not, thirty dollars (\$30.00).

Schedule 56. For each dealer in electric, gas or other mechanical refrigerators, electric or gas heaters, electric or gas water heaters, electric or gas stoves, and/or for each electrical or gas repair, or electrical or gas supply shop: In cities of one hundred thousand inhabitants or over, thirty dollars (\$30.00); in cities of fifty thousand and less than one hundred thousand inhabitants, twenty dollars (\$20.00); in cities of ten thousand and less than fifty thousand inhabitants, ten dollars (\$10.00); in places of less than ten thousand inhabitants, whether incorporated or not, five dollars (\$5.00).

Schedule 57. For each embalmer, ten dollars (\$10.00).

Schedule 58. Each person practicing for the public the profession of civil, electrical, mining, mechanical or radio engineering, shall pay an annual license of twenty dollars (\$20.00) to the State, but no license shall be paid to the County. If such business is conducted as a firm or corporation in which more than one engineer is engaged, each engineer so engaged shall pay a license of twenty dollars (\$20.00). Provided that no such engineer shall be required to pay this license, until after he practiced his profession for two years in this State or elsewhere. Provided further that an engineer who is an employee of the State or of any county or municipality at a fixed salary and who engages in no other engineering work for compensation is not subject to this license when so employed.

Schedule 59. Every person operating a cotton seed oil mill, cotton mill, cloth mill, towel factory, garment factory, yarn mill, hosiery mill, peanut mill, peanut oil mill, peanut shelling plant, paper mill, pulp mill, mill manufacturing sheeting, rugs or carpets, bags, cement, lime, plaster, chemical, acid, (other than fertilizer) explosive and all mills manufacturing any finished or semi-finished products of thread, yarn, cloth, paper, jute, rubber or other factory where materials are woven or made: Ten Dollars (\$10.00) where the investment for plant, equipment, supplies and fixtures is less than fifteen thousand dollars; Twenty Dollars (\$20.00) where the investment for plant, and fixtures is fifteen thousand dollars and

less than twenty five thousand dollars. Thirty Dollars (\$30.00) where the investment for plant, equipment, supplies and fixtures is twenty-five thousand dollars and less than fifty thousand dollars; Fifty Dollars (\$50.00) where the investment for plant, equipment, supplies and fixtures is fifty thousand dollars and less than one hundred thousand dollars; One Hundred Dollars (\$100.00) where the investment for plant, equipment, supplies and fixtures is one hundred thousand dollars and less than five hundred thousand dollars; One Hundred and Fifty Dollars (\$150.00) where the investment for plant, supplies and fixtures is five hundred thousand dollars and less than one million dollars: Two Hundred Dollars (\$200.00) where the investment for plant, supplies and fixtures is one million dollars and over. Provided that such investment shall be the total capital employed in such plant and the person applying for such license shall furnish a sworn affidavit showing the amount of his investment and accompany the same by a statement taken from the books of the company showing the amount of such investment and such books shall at all times be subject to the inspection of the State Tax Commission or its agents.

Schedule 60. For each person engaged in cleaning and renovating feathers, or soliciting such work, in each county twenty dollars (\$20.00).

Schedule 61. For each toll bridge or ferry where thoroughfare tolls are charged for animals or vehicles crossing the same, when not within two miles of the corporate limits of a city or town of two thousand (2000) inhabitants, where the income is more than three hundred dollars (\$300.00) and less than six hundred dollars (\$600.00) per annum, five dollars (\$5.00); for the same in or within the corporate limits of any town or city of more than two thousand (2000) and less than five thousand (5000) inhabitants, fifty dollars (\$50.00); for the same in or within two miles of the corporate limits of a town or city of five thousand (5000) inhabitants or more, seventy-five dollars (\$75.00); but when the gross income of any ferry within two miles of the corporate limits of a town of over two thousand (2,000) inhabitants does not exceed twelve hundred dollars (\$1200.00) in any one year, the license for such ferry shall be twenty-five dollars (\$25.00).

Schedule 62. For each person owning or operating any fertilizer factory in which the capital invested does not exceed twenty-five thousand dollars, fifty dollars (\$50.00); in which the capital invested exceeds twenty-five thousand dollars and does not exceed fifty thousand dollars, one hundred dollars (\$100.00) in which the capital invested exceeds fifty thousand dollars and does not exceed one hundred thousand dollars, two hundred dollars (\$200.00); in which the capital invested exceeds one hundred thousand dollars, two

hundred and fifty dollars (\$250.00) for each factory. For each fertilizer mixing plant, fifteen dollars (\$15.00).

Schedule 63. Each dealer in fireworks such as roman candles, sky rockets, torpedoes, fire crackers, cannon crackers, cap guns, devil wheels and such other articles commonly known as fire-works, in cities or within two miles of said cities, of twenty-five thousand (25,000) population or more, fifty dollars (\$50.00); in cities or within two miles of said cities of ten thousand (10,000) population and not more than twenty-five thousand (25,000) thirty dollars (\$30.00); in cities or within two miles of said cities of five to ten thousand population, twenty dollars (\$20.00); in all other places whether incorporated or not, ten dollars (\$10.00).

Schedule 64. For each flying jenny, called also hobby horses, and merry-go-rounds, roller coaster, or other devices of like character, fifty dollars (\$50.00) per year, twenty dollars (\$20.00) for each month, or five dollars (\$5.00) for each week in each place in which such device is operated, whether incorporated or not.

Schedule 65. For each fortune teller, palmist, clairvoyant, astrologer, phrenologist or crystal gazer, where any fee is charged directly or indirectly, or any gratuity is accepted, Forty Dollars (\$40.00).

Schedule 66. For each person selling fruit from a fruit stand, store or other established place of business, in cities or towns of over ten thousand (10,000) inhabitants, ten dollars (\$10.00); and in all other places whether incorporated or not five dollars (\$5.00) Provided this section shall not apply to regular merchants carrying fruit as a part of their stock of merchandise but who do not display same in front of their place of business, and whose ad valorem assessment on his stock of merchandise at the place where such fruit is sold is in excess of one hundred dollars.

Schedule 67. Each person operating for profit a gasoline filling station or pump in cities or towns, or within three miles thereof, shall pay the following privilege tax: in cities of one hundred thousand inhabitants and over, where only one pump or filler is used, Forty Dollars (\$40.00), and for each additional pump Thirty Dollars (\$30.00); in cities or towns of Forty Thousand inhabitants and less than one hundred thousand inhabitants, where only one pump or filler is used, Thirty Dollars (\$30.00) and for each additional pump Twenty Dollars (\$20.00); in cities or towns of Twelve Thousand inhabitants and less than Forty Thousand, Twenty-five dollars (\$25.00) where only one pump or filler is used and for each additional pump or filler, Fifteen Dollars (\$15.00); in cities or towns of Five Thousand inhabitants and less than Twelve Thousand, Twenty Dollars (\$20.00) where only one pump or filler is used and for each additional pump, Ten Dollars (\$10.00); in incorporated towns of One Thousand inhabitants and less than Five

Thousand, where only one pump or filler is used Ten Dollars (\$10.00); and for each additional pump or filler Seven and One Half Dollars (\$7.50); in incorporated towns of less than one thousand inhabitants, Five Dollars (\$5.00) and for each additional pump or filler Three Dollars (\$3.00); in all other places whether incorporated or not Two and one Half Dollars (\$2.50).

Schedule 68. Each person whose principal business is the selling of plate glass, or other glass in cities of one hundred thousand inhabitants or more, fifty dollars (\$50.00); in cities or towns of more than thirty thousand and under one hundred thousand inhabitants, thirty-five dollars (\$35.00); in cities or towns of more than seven thousand and not over thirty thousand inhabitants, twenty dollars (\$20.00); in all other places, ten dollars (\$10.00).

Schedule 69. For each person operating a golf course, or courses, where the game of golf, miniature golf or similar game is played, either indoors or out, where a charge is made, shall pay the following: In towns and cities of five hundred and not exceeding ten thousand inhabitants, or within ten miles of the city limits thereof, ten dollars, for each golf course, and five dollars for each table or course where miniature golf or similar game is played; in towns or cities of over ten thousand and not exceeding thirty-five thousand inhabitants, or within ten miles of the city limits thereof, twenty dollars for each golf course and ten dollars for each table or course where miniature golf or similar game is played; in cities of thirty-five thousand inhabitants, or within ten miles of the city limits thereof, forty dollars for each golf course and fifteen dollars for each table or course where miniature golf or similar game is played. In all other places whether incorporated or not for each golf course five dollars (\$5.00) and for each table or course where miniature golf or similar games are played two dollars and fifty cents (\$2.50). Provided that this schedule shall not apply to municipally owned and operated golf courses or tables, not to regularly organized clubs or other private organizations maintaining and operating a golf course or tables for the use of its members only.

Schedule 70. Each person conducting what is commonly known as a hat cleaning establishment: For each place where such work is actually done, shall pay a license of five dollars (\$5.00) in cities and towns of less than ten thousand inhabitants; in cities and towns of ten thousand inhabitants and over, ten dollars (\$10.00), and in addition shall pay five dollars (\$5.00) for each separate place of business within this State owned or operated for the reception and collection of such articles. Provided that a person not having a place of business within the State of Alabama where such work is actually performed, shall pay a license of five dollars (\$5.00) for each vehicle and for each regular place of business with-

in this State owned or operated for the reception and collection of such articles.

Schedule 71. Each person dealing in hides or furs, whether principal business or not: In counties of one hundred thousand inhabitants or over, twenty-five dollars; in counties of forty thousand inhabitants and less than one hundred thousand inhabitants, twenty dollars; in counties of less than forty thousand inhabitants, fifteen dollars (\$15.00). Provided, however, that the license herein fixed shall not apply to persons dealing in cattle, sheep, goat or horse hides.

Schedule 72. Each person engaged in the business of buying, selling or exchanging horses, mules, jacks or jennets, shall pay a license tax of twenty dollars (\$20.00) in each county, where such person engages in said business.

Schedule 73. For every company of persons who travel from place to place and dwell in tents or vehicles and trade in horses or mules or motor vehicles five Hundred dollars (\$500.00) in each and every county in which they do business.

Schedule 74. Each person keeping a public inn or lodging house of five or more bed rooms where transient guests are lodged for pay shall be deemed for the purposes of this Act to be engaged in the business of keeping a hotel. A transient guest is one who puts up for less than one week at such hotel, but such a house is no less a hotel because some of the guests put up for longer periods than one week. Every person keeping a hotel as defined in this section shall pay an annual license tax as follows: Hotels with five rooms and not over fifteen rooms, fifty cents for each room; hotels with over fifteen and less than fifty rooms, one dollar (\$1.00) for each room; hotels with fifty rooms and less than one hundred rooms, one dollar and fifty cents (\$1.50) for each room; hotels with one hundred rooms and over, two dollars (\$2.00) for each room. If meals, food or refreshments are served to the general public and charged for, then the additional license required to be paid by restaurants, cafes, lunch counters and public eating houses shall be paid. Provided that where cottages or annex are operated in connection with, or rented by, such hotel the above schedule shall apply to the total of the rooms in the hotel and the cottages and annex.

Schedule 75. For each manufacturer of ice cream who sells any part of his output at wholesale; in cities of 35,000 inhabitants and more, Fifty Dollars (\$50.00); in cities of less than 35,000 and not less than 7,000 inhabitants, Ten Dollars (\$10.00); in all other places Five Dollars (\$5.00); provided that nothing in this Schedule shall apply to soda fountains, and places of like character, where the owner or proprietor manufactures ice cream exclusively for service at his established place of business.

Schedule 76. For each ice factory, one dollar (\$1.00) per annum for each ton capacity per day.

Schedule 77. For each junk dealer in all places of less than one thousand inhabitants, whether incorporated or not, ten dollars (\$10.00); in towns of one thousand inhabitants and less than three thousand inhabitants, or within ten miles thereof, twenty dollars (\$20.00); in cities and towns of three thousand and less than ten thousand inhabitants, or within ten miles of the city limits thereof, thirty dollars (\$30.00); in cities and towns of ten thousand and less than twenty thousand inhabitants, or within ten miles of the city limits thereof, fifty dollars (\$50.00); in cities and towns of twenty thousand inhabitants and less than fifty thousand inhabitants or within ten miles of the city limits thereof, seventy-five dollars (\$75.00); in cities and town of fifty thousand inhabitants and over or within ten miles of the city limits thereof, one hundred and fifty dollars (\$150.00). Each junk dealer, his clerk, agent or employee shall keep a book open to inspection, in which he shall make entries of all articles of railroad iron or brass, pieces or machinery and plumbing material, automobiles, automobile tires, parts and accessories, or other articles, purchased by him, together with the name of the party from whom purchased, and upon failure to keep such book or record and produce it on demand, the dealer shall forfeit his license. Each junk dealer, his clerk, agent or employee to whom any new and unused articles or railroad brass and iron, pieces of machinery, automobiles, automobile tires, parts and accessories or other articles shall be presented for sale shall notify the police authorities that such articles are offered for sale, within a reasonable time thereafter; otherwise his license shall be forfeited. Any junk dealer whose place of business is within ten miles of more than one city, shall pay the license as provided herein for the larger of the cities within ten miles.

Schedule 78. Each immigrant agent or labor agent, or each person operating as such within the meaning of this Schedule or who shall engage in or undertake to engage in the business as provided in this Schedule, shall pay annually a State and County license tax of Five Thousand Dollars (\$5,000.00), in each county in which such person or agent engages in business or operates or undertakes to do business or operates as in this Schedule set forth or within the meaning thereof; and also such license shall be paid in every county through which said laborers are transported or pass regardless of the mode of transportation, provided such agent or his representative or person placed in charge of such laborers by him shall travel on the same train or conveyance on which any laborer recruited or engaged by such agent is transported. Three-fifths of each such license shall be paid to the State and two-fifths of each such license shall be paid to the county.

Schedule 78.1 Each person who shall engage in the business of hiring or soliciting or who shall undertake to hire or solicit, or recruit or gather laborers to go or to be employed without the State of Alabama, or in furnishing, arranging for or providing transportation for laborers to go beyond the limits of the State of Alabama, or any person who shall solicit by word of mouth or who shall advertise for such laborers, by publication, circulars, handbills, cards, letters, telegrams, posters or otherwise whether the same be posted or distributed by hand, mail or other means, shall be, and shall be deemed, an Emigrant Agent or Labor Agent within the meaning of this Schedule, and the doing of any one or more of the acts or things set forth above, or the causing of the same to be done, as well as acting as agent; intermediary or messenger (or services to that end) for another in procuring, transmitting or delivering any ticket or pass for transportation or money for transportation to points without the State of Alabama, to any laborer or workman, or another for transmission or delivery to any laborer, whether for a reward or gratuitously, shall constitute doing business or engaging in the business within the meaning of this Schedule and sending or causing to be sent advertising matter, cards, handbills and the like into any county; or the posting of solicitation as set forth above, to be delivered in any county, shall constitute doing business or engaging in business in such county so as to make such agent liable for the payment of license herein provided in each of such counties such circulars, cards, advertisements, letters and the like may be distributed or delivered.

Schedule 78.2. Any person, firm or corporation who shall receive and print, publish or distribute, or circulate any advertisement, or the like, either for him or itself or for another, seeking or for the purpose or design, to induce any laborer or laborers, to go without the State of Alabama, or to recruit such labor to be employed without the State of Alabama, shall be and shall be deemed an emigrant agent or labor agent within the meaning of this Schedule; and the printing or publication or distribution or circulation of any such advertisement, or any one or more of them, shall constitute doing business within the meaning of this Schedule, and shall subject such person, firm or corporation to the payment of the license herein provided and to the penalties herein provided for failure to do so.

Schedule 78.3. Each and all assistants, sub-agents, partners, associates or employees of any such person or Emigrant Agent or Labor Agent, within the meaning of this Schedule, shall be subject to the license hereby levied and liable for the payment thereof, whether such license shall be paid by his or their employer, principal partner, associate or not; and he or they shall be subject to the provisions of the Schedule in any event. And every person,

(whether he be acting individually or as an officer, agent or employee of any corporation, firm or individual) engaged in transmitting messages, money, or operating a messenger service who shall act as agent, intermediary or messenger (or service to that end) for another in procuring, transmitting or delivering any ticket or pass for transportation or the money for transportation, to points without the State of Alabama, to any laborer or workman, or another for transmission or delivery to any laborer, shall be subject to the provisions of this Schedule and liable for the payment of license hereby levied and for penalties herein provided for the failure to comply with the provisions of this Schedule, the same as if he were acting as sub-agent, associate, partner or employee of a labor agent or an emigrant agent as herein defined. But a common carrier engaged in interstate commerce shall not by reason of the mere fact alone of its having transported passengers or its own workmen or employees to points without the State, be deemed to be an Emigrant or Labor Agent under this Schedule.

Schedule 78.4. Any person who shall engage in the business or undertake to engage in the business of an Emigrant Agent or Labor Agent as defined in this Schedule, or shall do any of the acts or things constituting doing business or engaging in the business of Emigrant Agent or Labor Agent as defined in or within the meaning of this Schedule or who knowingly assists another in so doing, without having first obtained a license as herein provided, or without having first given bond as provided in this Schedule or without having first complied with the further provisions of this Schedule, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) and not more than Five Thousand Dollars (\$5,000.00), or may be imprisoned in the county jail or sentenced to hard labor for the county for not less than four months nor more than one year, within the discretion of the Court. Any person who shall engage in the business or undertake to engage in the business of Emigrant Agent or Labor Agent as set forth above even though he has taken out a license as herein provided, who engages any assistants, sub-agents, partners or employees who have not been licensed according to the law or as herein provided, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Five Hundred (\$500.00) and not more than Five Thousand Dollars (\$5,000.00) or may be imprisoned in the county jail or sentenced to hard labor for the county for not less than four months nor more than one year, within the discretion of the court. And for the purpose of better insuring the enforcement of the provisions of this Schedule it is hereby stipulated that, in addition to the courts already having such jurisdiction conferred by law, jurisdiction of offenses under this act occurring any where within the



county and jurisdiction, power and authority to impose the maximum fines and penalties and punishment herein provided for, is hereby conferred on all inferior courts, or courts established in lieu of Justice of the Peace Courts by whatsoever named called, on which courts criminal jurisdiction is now by law conferred in counties having over one hundred and fifty thousand (150,000) population according to the last or any subsequent federal census and the defendant in the trial of such case shall not have the right to plead that the crimes or offense with which such defendant is charged occurred or arose in some precinct of the county other than the one in which said court is located and such trial is had; nor shall the defendant in such cases in counties where there is a division of the Circuit Court and exercising territorial jurisdiction over parts of such counties and holding court at places other than the county site of such county, have the right to plead that the offense with which the defendant is charged occurred or arose in some other sub-division of the county than the one in which such court is located and such trial is had.

Schedule 78.5. The license inspector, or other official of the State chargeable with the duty of collecting delinquent license under the laws of the State of Alabama, and with the duty of enforcing the provisions of this Schedule, shall receive and be paid out of the same, by the officer collecting it, when and as collected, fifteen per cent (15%) of all fines and forfeitures imposed under the provisions of this Schedule, in case the prosecution was instituted by him, or at his instance, or on information furnished by him, but not otherwise.

Schedule 78.6. Except in case the Emigrant Agent or Labor Agent defined in this Schedule, be a corporation or co-partnership engaged in the publication and distribution or circulation of a newspaper or other publication, or engaged in the transmission of telegrams or messages for hire and engaged in rendering messenger service in connection therewith, no license shall be issued or granted under this Schedule to a corporation, association, firm or partnership; but may be issued only to an individual person.

Schedule 78.7. Before any license shall be granted or issued under this Schedule, the person applying for same shall file with the Judge of Probate of such county a bond executed by him, with at least two good and sufficient sureties residing in the county, (or with some bonding corporation authorized to do business in Alabama) to be approved by said Judge of Probate, payable to the State of Alabama, in the sum of Five Thousand Dollars (\$5,000.00), conditioned on the payment of such damages as any person may sustain by reason of any false representations or misrepresentations made to such person by such person applying for such license, or any of his agents, representatives, or in any advertisement or

where such laborer is to be sent for employment, or the written or printed matter, as to the nature of the place surroundings thereat, wages to be paid, class and nature of the work to be performed, threat, duration, or any other feature of the prospective employment, together with such damages as may be sustained by failure to secure the promised employment; (no person who would otherwise be entitled to maintain an action on such bond shall forfeit or lose his cause of action or right to maintain the suit, because of any waiver thereof made in advance of the accrual of such cause of action; and no such waivers shall be null and void and of no force and effect). Furthermore, said bond shall be conditional on the payment of such damages as any person may sustain by reason of his servant or employee having been enticed away or caused to leave employment by said, his representative or employee or by reason of his advertising matter, circulars, letters and the like, or of the solicitation of such agent or his emissaries. Any person who may suffer damage by reason of any of the wrongs set forth as a condition under which damages may be payable under said bond may recover thereunder by suit in his own name and the same may so be prosecuted and maintained against the principal on said bond and also the sureties on said bond may be properly joined as parties defendant to said action and recovery may be had against them as in like cases provided by law.

Schedule 78.8. No license shall be granted or issued under this Schedule, unless the person wishing same shall first produce to the Judge of Probate of the county in which he wishes to engage in the business of Emigrant Agent or Labor Agent, within the meaning of this Schedule, a recommendation in writing signed by twenty house holders and free holders who are qualified electors of the county in which the applicant proposes to engage in said business, stating (1) That they are personally acquainted with such Applicant; (2) That he is of good moral character and that his reputation for truth and veracity is good; (3) That he has been a bona fide resident citizen of the State of Alabama for six months preceding the filing of the application. Which said recommendation shall be filed with the application for license hereinafter provided to be made. Nor shall such license be issued at the time of filing the recommendation the applicant also file, with said Judge of Probate, his application for license, which application shall state, (1) The full name and present residence of applicant and how long he has there resided, (2) The location or post office address, so that it may be located, of the known place or place where the business is to be carried on or conducted, and the name and post office of the owner of the premises, (3) that the applicant has never been guilty or convicted of violating the Criminal laws of the State of Alabama

and that applicant has never heretofore hired or solicited laborers to go or to be employed outside of Alabama nor furnished, provided or arranged for transportation for laborers to go beyond the limits of the State of Alabama, nor assisted others in doing so, without having first paid the license tax in such cases provided by law in force at the time, to be paid, nor has he at any time solicited or caused to be solicited nor sought to cause any laborer or laborers to leave or quit the employment of another nor assisted or caused others to do so, (4) The name, residence and post office of any and all persons, firms and corporations pecuniarily interested with applicant in the business for which the license is sought or who has or who will furnish or provide or advance or loan to applicant the money or any part thereof to pay for the license so applied for. (5) The name of the employer and the name of the place the laborers solicited or hired or shipped, are to be employed and the name of the person or persons at such place under whom they will work; the class of work they will be called upon to perform and scale of wages paid therefor; the living accommodations that will be provided and the cost of board and lodging thereat; whether or not the transportation furnished will be charged against the laborer and if so on what terms, and whether or not return transportation will be provided in case the laborer is dissatisfied with wages or conditions or is refused employment or discharged for any cause, within three months after his services have begun. Also the amount of compensation applicant is to receive for each laborer procured by him. Said statement must be sworn to by the applicant before such Judge of Probate or before some judge of a court of record in the state, and if any false statement is knowingly made by such applicant, then such applicant shall be guilty of perjury and shall be punished as by law in such cases provided.

Schedule 78.9. Before the granting of the license the applicant must go before an officer authorized to administer an oath and to certify affidavits and make and subscribe to following affidavit, and file the same with such Judge of Probate along with his application for licenses, viz; I, \_\_\_\_\_, do solemnly swear that I will observe and comply with the provisions of Acts of the Legislature of Alabama and laws of the State of Alabama relating to Emigrant Agents or Labor Agents; that I will not engage in or undertake to engage in the business defined in said Schedule, in any county in the State of Alabama, without having first procured a license therefor as provided in said Schedule; that I will not enter into partnership or association with, nor employ any to assist or aid me in carrying on the business or in soliciting or recruiting of laborers, nor in advertising or distributing advertising or arranging for transportation, or to accompany any laborers while in transport, nor to do any other act or thing for which a license is provided to

be paid in said Schedule, unless such person has first procured a license as provided in said Schedule; and that I will not allow such assistance to be made by any such person gratuitously or otherwise; that I will not at any time solicit or entice or cause to be solicited or enticed away or to leave the employment any servant or employee then in the service of another, nor will I assist or cause others to do so; that should I change the location of my place of business or set up another place of business within the county than that specified in my application for such license, or desire to ship or send laborers to other employers or places than as stated in item (5) of my application that I will before doing so file an additional statement under oath giving the information with respect thereto as required by Item (5) of the original application; that I will file with the said Judge of Probate from time to time as they may be engaged a statement in writing under oath giving the names and residence address of all persons that may be engaged in assisting me or employed by me in carrying on the business; and that I will not knowingly recruit, deliver or turn over to any one laborers to be shipped or employed without the State of Alabama who is not a holder of a license under said Schedule; that I will solicit and advertise for and recruit only those who are not at the time employed within the State of Alabama: In consideration of the issuance of the license to me, the undersigned under the above mentioned Schedule, I do hereby agree, that in case such license is suspended or revoked under the provisions of said Schedule or under any other law in such cases provided, to forfeit to the State and to the county in which the same is issued, any and all unearned portions and all and any part thereof of the money so paid for said license, and do hereby waive any and all claim or claims that I may have against the State of Alabama and against said County and against any judge or official thereof, that I may have by reason of any such suspension or revocation of said license. Witness my hand and seal this ——— day of ——— 193 —, L. S. (1)

The Judge of Probate of the county in which any license may be issued under this Schedule has the power and authority to suspend for any period of time, or to revoke absolutely any license issued under this Schedule to any person, in case such person is convicted of crime, or upon information under oath being filed with said Judge of Probate, that such licensee made any false statement or statements in his application for such license or his affidavit accompanying the same or has violated his oath or any of the same in his said affidavit, or has violated any provisions of the criminal laws of the State respecting the enticing away or causing to leave the employment of another any employee or servant; or if said Judge of Probate has reason otherwise to believe that any such of above is true he may under the power and authority vested in him

hereunder suspend for any length of time or absolutely revoke such license for the causes set forth above; but in any case the said Judge of Probate shall cite such licensee to appear before him at his office or place of holding court at such a time as the said Judge may appoint (but not less than three days from the time of the service of such notice) to show cause why his said license shall not be suspended or absolutely revoked under the authority of this Schedule, and the matter shall be taken and there heard and adjudicated according to the procedure of courts of record in this State on Rule Nisi and as in such cases provided by law. If upon the hearing the said Licensee is found guilty or in case he failed to appear, then said Judge shall enter a judgment or decree absolutely revoking such license or suspending the same for such period of time as he deems proper, provided that for a second offence the license must be revoked absolutely. Upon the entering of such decree or judgment the money paid for said license all and every part thereof shall be forfeited to the State and County respectively. There shall be no appeal from the judgment or decree or decisions of the said Judge of Probate suspending, cancelling or revoking any license hereunder. If during the term or period for which the license is suspended or permanently forfeited, the person who held said license shall do or undertake to do business as defined in this Act he shall be guilty of a misdemeanor and shall upon conviction be punished as is provided in subdivision (d) of this Schedule; and if the situation be a suspension of the license, such license shall immediately be and become forfeited and void without any further affirmative action being taken in regard thereto and no appeal from conviction shall have the effect of reinstating said license so long as the judgment or conviction remains unreversed. (j) If any provision, subsection, sentence, clause, or part of this Schedule shall be declared unconstitutional the remaining provisions unaffected thereby shall continue in full force and effect.

Schedule 79.—For each laundry where the work is actually performed other than those run by hand power: In cities and towns of thirty-five thousand (35,000) inhabitants and over, sixty dollars (\$60.00); in cities and towns of less than thirty-five thousand (35,000) and not less than fifteen thousand (15,000) inhabitants, thirty dollars (\$30.00); in cities and towns of less than fifteen thousand (15,000), and not less than five thousand (5,000) inhabitants, fifteen dollars (\$15.00); in all other places whether incorporated or not, ten dollars (\$10.00). For each laundry operated by hand power, ten dollars (\$10.00), provided that no license shall be required of persons commonly designated "Wash-woman". Provided further, that hotels which operate laundries for their own guests shall pay a license of one-fourth of the foregoing schedule.

Provided further that a person not having a place of business within the State of Alabama where such work is actually performed shall pay a license of \$25.00 for the reception or collection of laundry.

Schedule 80. For each exhibition of feats of legerdemain or sleight of hand, or other exhibition or entertainment of like kind, five dollars (\$5.00).

Schedule 81. For each person selling or delivering lightning-rods, one hundred and fifty dollars (\$150.00) for each county in which they sell or deliver said articles; (and for each wagon and team, or motor vehicle used in delivering or displaying the same, an additional sum in each county of fifty dollars (\$50.00)); but this schedule shall not apply to merchants selling lightning-rods at their regular established place of business.

Schedule 82. Each person renting or supplying laundried towels, aprons, coats, linens or supplying other similar service, in cities of one hundred thousand inhabitants or over, fifty dollars (\$50.00); in cities or towns of sixty thousand and less than one hundred thousand inhabitants, thirty-five dollars (\$35.00); in cities or towns of twenty-five thousand and less than sixty thousand inhabitants twenty-five dollars (\$25.00); in cities and towns of ten thousand and less than twenty-five thousand inhabitants, fifteen dollars (\$15.00); all other places whether incorporated or not, ten dollars (\$10.00). Provided that this Schedule shall not apply to regular laundries which have paid the licenses on laundries levied by this Act.

Schedule 83. For each person operating a lumber yard; in cities of one hundred thousand (100,000) inhabitants and over, seventy-five dollars (\$75.00); in cities of less than one hundred thousand (100,000) and not less than thirty-five thousand (35,000) inhabitants, forty dollars (\$40.00); in cities of less than thirty-five thousand (35,000) and not less than seven thousand (7,000) inhabitants, twenty-five dollars (\$25.00); less than seven thousand (7,000) inhabitants and not less than one thousand (1,000) inhabitants, ten dollars (\$10.00); in all other places whether incorporated or not, five dollars (\$5.00). This shall not apply to regularly licensed sawmills selling lumber at retail at it or his plant.

Schedule 84. For each wholesale dealer, or jobber of lumber and timber and for each wholesale dealer in lumber and timber on commission whether maintaining an established place of business or not, One Hundred Dollars (\$100.00).

Schedule 85. Each person operating a shop for the repair or rebuilding of machinery and/or making parts therefor, for the public and charging for same: In cities or towns of one hundred thousand or more inhabitants, forty dollars (\$40.00); in cities or towns of fifty thousand and less than one hundred thousand inhab-

itants, twenty-five dollars (\$25.00); in cities or towns of fifteen thousand and less than fifty thousand inhabitants, fifteen dollars (\$15.00); in all other places whether incorporated or not, five dollars (\$5.00). Provided, however, that this license shall not apply to what is commonly known as a blacksmith shop or to shops repairing automobiles where garage license or automobile repair license has been taken out.

Schedule 86. For each person engaging in the business of manicuring, hair dressing, or administering facial treatments, five dollars (\$5.00), provided this Schedule shall not apply to such persons employed in Beauty Shops and beauty shop colleges, paying the license as provided under Schedule 21.

Schedule 87. Each person conducting a marathon, walkathon or other contest of human energy or endurance, other than scholastic athletic events; seven hundred and fifty dollars (\$750.00) for the first week, and two hundred and fifty dollars (\$250.00) for each week thereafter. This license shall be payable seven hundred and fifty dollars (\$750.00) before opening of such exhibition or contest and two hundred and fifty dollars (\$250.00) payable weekly thereafter, in advance for each additional week or part thereof, which such contest shall continue.

Schedule 88. Each person, engaging in the business of manufacturing cushions, mattresses, pillows and/or rugs, and/or the renovating, cleaning or reworking of same, shall pay for the privilege of engaging in such business, fifteen dollars (\$15.00). Provided, however, the license shall be five dollars in towns of 3,000 or less population.

Schedule 89. For each menagerie or museum, when not in connection with a circus, for each day's exhibition, twenty-five dollars (\$25.00).

Schedule 90. Every person engaged in the business of selling or soliciting orders for the sale or purchase of mimeographs, duplicating machines, dictaphones, teletypes or other similar machines, and except any person regularly employed by a said agent of and/or dealer in which said agent of, or dealer in has paid the privilege tax or license tax herein provided for, the following annual privilege tax, shall be levied and collected: In counties of over one hundred thousand (100,000) inhabitants, thirty dollars (\$30.00); in counties of over sixty thousand (60,000) inhabitants and not exceeding one hundred thousand (100,000) inhabitants, twenty dollars (\$20.00); in counties of over forty thousand (40,000) inhabitants and not exceeding sixty thousand (60,000) inhabitants, fifteen dollars (\$15.00); in counties of forty thousand (40,000) inhabitants and less, ten dollars (\$10.00); but such license shall not authorize such agent or dealer to do business in any other county than that in which the license is issued, but if such agent or dealer shall do

business in any other county than that in which he has secured the license above provided, he shall pay an additional license in each such county where he solicits business of one-fourth of above schedule.

Schedule 91. Every person engaged in the business of operating a coal mine in the State of Alabama, shall pay to the State a license or privilege tax, by the twentieth of each month, for the privilege of operating such mines during the current month in which such payment is due, an amount equal to two and one-half cents ( $2\frac{1}{2}c$ ) per ton on all coal mined during the preceding month in which said mine is operated, according to the run of the mine, whether such mine be an open mine or an underground mine; but no such tax shall be paid to any county in the State. Railroad weights shall govern in determining the amount of coal mined, if said coal is loaded on railroad cars. Provided that in order that the industrial development of the State may be best preserved and promoted and in order that any deleterious effect of the tax levied in this Schedule may be minimized, the State Tax Commission is authorized and empowered to lower, with the approval of the Governor, as in its knowledge or prevailing conditions may, from time to time, prove expedient and advisable for the best welfare of the State, but not to raise the rate on which the tax is computed.

Schedule 92. Every person engaged in the business of mining iron ore or operating an iron ore mine in the State of Alabama shall pay to the State of Alabama a license or privilege tax, by the twentieth of each month, for the privilege of operating said iron ore mine during the current month in which such payment is due, an amount equal to four and one-half cents ( $4\frac{1}{2}c$ ) per ton on all iron ore mined during the last preceding month in which said mine was operated according to the run of the mine, whether such mine be an open mine or an underground mine, but no such tax shall be paid to any county in this State. Railroad weights shall govern where said iron ore is loaded on railroad cars, in determining the amount of iron ore mined. Provided that in order that the industrial development of the State may be best preserved and promoted and in order that any deleterious effect of the tax levied in this Schedule may be minimized, the State Tax Commission is authorized and empowered to lower, with the approval of the Governor, as in its knowledge of prevailing conditions may, from time to time, prove expedient and advisable for the best welfare of the State, but not to raise the rate on which the tax is computed.

Schedule 92.1. Every person, partnership, joint stock company or association engaged in the business of mining iron ore or coal in this State, shall by the twentieth (20th) day of each month, make a report, duly sworn to before some officer authorized to administer oaths, to the State Tax Commission, of the number of tons of



iron ore or coal mined during the preceding month according to the run of the mine, and where mined, by such person in this State. Every person engaged in operating or assisting to operate in any capacity whatsoever, any coal or iron ore mine in this State upon the output of which a report has not been made as provided herein upon which the license or privilege tax has not been paid and is past due, shall be guilty of a misdemeanor and upon conviction therefor shall be fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00), and may also be sentenced to hard labor for the county for not more than six months.

Schedule 92.2. Every person or corporation receiving coal or iron ore from any mine in this State for transportation or use shall render to the State Tax Commission by the twentieth (20th) day of each month a statement in writing, duly sworn to by some person having knowledge of the facts before some officer authorized by law to administer oaths of the number of tons so received during the preceding month. Every person receiving coal and/or iron ore from any mine in this State and transporting same in motor trucks shall in addition to the above requirements, show to whom and where each ton of coal or iron ore was delivered. Every person or corporation receiving coal or iron ore from any mine in this State, for transportation or use, who shall fail by the twentieth (20th) day of the succeeding month to render the statement required herein, shall be guilty of a misdemeanor and upon conviction therefor shall be fined not less than ten or more than five hundred dollars.

Schedule 93. Each person who sells or erects monuments or tombstones in the State, five dollars (\$5.00) for each county in which he sells or erects such monument or tombstone, provided that this shall not apply to benevolent and fraternal societies that place monuments at the graves of their members.

Schedule 93½.1. Each person engaged in discounting or buying conditional sales contracts, drafts, acceptances, notes or mortgages on personal property shall pay an annual license as follows: Employing Capital of—\$50,000.00 or less\_\_\_\_\_ \$5.00; \$50,000.00 to \$100,000.00\_\_\_\_\_ \$10.00; \$100,000.00 to \$150,000.00\_\_\_\_\_ \$15.00; \$150,000.00 to \$300,000.00\_\_\_\_\_ \$25.00; \$300,000.00 to \$500,000.00\_\_\_\_\_ \$100.00; \$500,000.00—and up\_\_\_\_\_ \$300.00, the payment of which shall be sufficient to engage in business in any county of the State except County in which principal office is located in which case County License shall be one-half of above schedule. 2. Each person engaging in business of lending money on salaries or making industrial or personal loans shall pay an annual license of one hundred dollars for each county in which they engage in business. 3. Each person lending money on mortgages secured by real estate in this State shall pay an annual license based on the amount of

such loans made during any taxable year, as follows: Where the aggregate amount of such loans exceeds ten thousand dollars but does not exceed twenty-five thousand dollars: \$30.00. Where the aggregate amount of such loans exceeds twenty-five thousand dollars but does not exceed fifty thousand dollars: \$50.00. Where the aggregate amount of such loans exceeds fifty thousand dollars but does not exceed one hundred thousand dollars: \$75.00. Where the aggregate amount of such loans exceeds one hundred thousand dollars: \$150.00. This Schedule shall apply to all such persons whether organized under the laws of this State or any other State or territory or county, the payment of the license in one county of the State as evidenced by the license certificate of the Judge of Probate shall be sufficient; provided however that if an office is maintained in more than one county, the license shall be one-half of the above license payable in each additional county where an office is maintained. Provided that corporations or institutions organized under the Act of Congress, known as the Home Owners Loan Act of 1933, as amended or as hereafter amended, and corporations or institutions organized by an Act of Congress known as the Federal Farm Loan Act, approved July 17, 1916, and amendment thereto, and Building and Loan Association chartered under the laws of Alabama, and insurance companies and their agents which are otherwise taxed under the laws of this State, shall not be required to pay a license under this Schedule. Provided further that nothing in this Schedule shall be construed as levying a license on charitable, religious, educational or fraternal organizations or institutions, nor to banking institutions organized as such under the laws of this State or national banks. No individual person who is a bona fide resident of this State and no guardian, trustee, executor, administrator or other person in a representative capacity not professionally engaged in the business of loaning money, who shall lend his money or that of his ward, beneficiary, cestui que trust or principal secured by mortgage on real property, shall be liable for any license under this Schedule.

Schedule 94. No mortgage, deed of trust, contract of conditional sale, or other instrument of like character which is given to secure the payment of any debt, which conveys any real or personal property situated within this State, or any interest therein, shall be received for record unless the following privilege or license taxes shall have been paid upon such instrument before the same shall be offered for record to-wit: (a) Upon all such instruments which are executed to secure any indebtedness which shall not exceed one hundred dollars (\$100.00), there shall be paid the sum of fifteen cents, and upon all instruments which shall be executed to secure the indebtedness of more than one hundred dollars there shall be paid the sum of fifteen cents for each one hundred dollars

of such indebtedness, or fraction thereof, which is secured by said mortgage, deed of trust, contract of conditional sale, or other instrument of like character. (b) If any part of the indebtedness which the mortgagor or debtor in any other instrument is authorized to incur under the terms of the instrument has not been, or will not be, presently incurred, at the time such instrument is offered for record, the tax shall be paid on the amount of indebtedness presently incurred, and the State Tax Commission, upon the petition of the owner of any such instrument, or upon the petition of the agent or attorney of such owner, shall ascertain to its own satisfaction the amount then taxable, and the amount to be incurred thereafter, and determine the amount upon which the tax shall be paid at the time such instrument is offered for record, and shall endorse its findings on such instrument. Upon the presentation of such instrument with such endorsement thereon, the Judge of Probate of any county in which the instrument is offered for record, upon the payment of the tax upon the amount so ascertained by the State Tax Commission and the recording fees of the Probate Judge, shall accept the same for record. The State Tax Commission shall also require the owner of such instrument to execute a bond, in an amount sufficient to secure the State the privilege tax to become due and payable under this section upon the amount of the indebtedness to be incurred thereafter, such bond to be approved by the State Tax Commission and payable to the State of Alabama, and conditioned that the owner of such instrument will promptly report to the said State Tax Commission and to the Probate Judge of the county where said instrument is first filed for record, whenever such owner or his successor in interest incurs any additional indebtedness thereunder, and the amount so incurred; and that the said owner of such instrument will pay or cause to be paid to the Judge of Probate of the county in which said mortgage is first filed the privilege or license tax required under this section, upon the accrual of any additional indebtedness, and that the said owner of such instrument will report to the said Probate Judge and the State Tax Commission during the month of September of each year the amount of all indebtedness and all bonds, debentures, notes or other forms of indebtedness, incurred or certified and delivered under said instrument to such date, and the amount so certified and delivered during the preceding twelve months, and the aggregate of all such evidence of indebtedness certified and delivered under such instrument prior to such year. The bond executed to secure payment of the tax herein required shall cover a term of five years, and after the expiration of said term of five years, the owner of the instrument offered for record shall execute such further bond as may be required by the State Tax Commission covering the suc-

ceeding term of five years, and thereafter every term of five years, in the same manner so long as any of the indebtedness authorized to be incurred by such instrument has not been incurred with like condition and in such sum as the said Commission may prescribe. (c) That when any deed is filed for record which recites that part of the purchase money is unpaid, such deed to the extent of such unpaid balance shall be held and treated as a mortgage, and the mortgage tax shall be collected by the Judge of Probate in addition to the tax for recording the instrument as a deed before recording the same, unless said balance of purchase money shall be secured by mortgage or deed trust which has already been filed for record, and the tax thereon paid, and the fact of such prior payment shall be endorsed on the deed. When any such deed is recorded and the tax thereon is paid, and thereafter a mortgage securing the debt is filed for record, the same shall be admitted to record without the payment of the mortgage tax and the fact of such prior payment shall be endorsed on the deed. (d) The privilege taxes required by law to be paid on mortgages, deeds of trust and similar instruments shall not be required on or for the filing of any such instrument, providing additional or substantial security for any indebtedness secured by an instrument previously filed, upon the filing of which the taxes provided by law have been paid or which was filed at a time when no such privilege taxes were required by law, provided the secured indebtedness remains unchanged in amount and in time of maturity. (e) Upon the filing for record of such mortgage, deed of trust, contract of conditional sale or other instrument of like character, the person to whom the same shall be made payable, or his agent shall present the said instrument to the Judge of Probate of the county in which the property conveyed thereby, or any part thereof is situated, and shall pay to the Probate Judge the amount of the tax required under this section to be paid upon such mortgage, deed of trust, contract of conditional sale, or other instrument of like character, and upon such payment the Probate Judge or his clerk shall certify on said mortgage, deed of trust, contract of conditional sale, or other instrument of like character, the fact that the said tax has been paid and when so certified by the Probate Judge or his clerk, such instrument shall be admitted to record in any county wherein any of the property mentioned in said instrument is situated, without the payment of any further tax thereon, except the fee to the Probate Judge for recording such instrument, and such certificate of the Probate Judge shall be recorded by such Probate Judge when such instrument is recorded. The tax herein provided for shall be paid upon all contracts for the sale of real or personal property, whether the same be in the nature of a conditional sale, or a bond for title, and no such con-

tract shall be received for record until such tax shall have been paid. (f) When the time for the payment of the indebtedness secured by any such mortgage, deed of trust, contract of conditional sale, or other instrument in the nature of a mortgage, is extended or renewed, and the extension or renewal contract is offered for record the tax required in this section shall be paid on the amount of indebtedness so extended or renewed; and the same be governed in all respects by the provisions of this subdivision. There shall be no ad valorem tax collected on any such instrument, or the debt secured thereby which shall have paid the tax prescribed by this section, either State, County or Municipal. (g) Of the taxes collected by the Probate Judge under this Schedule there shall be paid to the county treasurer of the county in which such taxes are collected one-third of the amount collected by him, to be accounted for by him and the remaining two-thirds of said amount collected, to the State Treasury. The Probate Judge shall receive five per cent of the amount collected by him as compensation for his services in collecting said money, and certifying said instrument, said five per cent to be retained by him out of the money collected by him under this Schedule; but when the property described in said instrument is situated within different counties within this State, then the Probate Judge who collects said taxes shall pay over the amount due to the county, to the county treasurer of each of the different counties in which said property is situated an amount of said taxes that would be in proportion to the value of the property therein as compared to the value of the whole property within this State described in said instrument. (h) If any part of the property embraced or described in any instrument which is required under this section to pay a record privilege tax is located without this State, the indebtedness upon which the tax shall be paid for the privilege of recording such instrument shall be that proportion of the indebtedness secured by the instrument which the value of the property located in this State bears to the whole property described in said instrument. The State Tax Commission may ascertain the value of the whole property, and of that part of it which is located within this State, for the purpose of ascertaining the amount of the indebtedness upon which said tax shall be paid. And the value of that part of the property located within this State and the amount of the indebtedness upon which such tax shall be paid shall be ascertained in the following manner: First, the owner of any such instrument, or his agent, or attorney, may petition the State Tax Commission to ascertain the value of the whole property, and of that part of which is located within this State and the amount of the indebtedness upon which such tax shall be paid, and the State Tax Commission after hearing such evidence as may be offered or as may be before it, shall fix and determine the value of that part

of the property located within this State and the amount of the indebtedness upon which the tax shall be paid and shall endorse its findings on such instrument and upon the presentation of said instrument, with such endorsements, to the Probate Judge of the county in which any part of the property is located, such instrument upon the payment of the tax upon the amount of such indebtedness as so ascertained by said State Tax Commission and of the recording fees of the Probate Judge; or, second, the owner of any such instrument, or his agent, or attorney, may have such instrument recorded by paying to the Probate Judge of the county in which the instrument is offered for record, the privilege tax on the entire amount of the indebtedness secured by such instrument, and may thereupon present his petition to the State Tax Commission within thirty days after such instrument is recorded, and it shall be the duty of said property and of that part of it located within this State, and to fix and determine the amount of the indebtedness upon which the tax shall be paid, and said Commission shall thereupon ascertain such valuation and fix and determine such indebtedness, and shall order the Judge of Probate to refund the excess of privilege tax collected by him and the Probate Judge shall comply with such order; and the tax paid upon the entire amount of such indebtedness shall be held by the Probate Judge until the State Tax Commission determines the amount of the indebtedness upon which such tax shall be paid. (i) Any Probate Judge who shall file for record, or shall receive any mortgage, deed of trust or other instrument in the nature of a mortgage, without collecting the recording or registration tax provided for the recording or registration of such instruments, or who shall fail to certify the fact that such tax has been paid before filing and recording of such instrument, shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten nor more than one thousand dollars. (j) Every petition filed with the State Tax Commission to ascertain the amount of the mortgage tax due to be paid under this section shall, when the property conveyed in the instrument offered for record is located in more than one county of the State shall show the value of the property conveyed in each county in which the instrument is to be recorded. (k) Any Probate Judge who fails to keep the abstract of mortgages or other instruments intended to secure the payment of moneys, which are filed in his office for record, as he is required by law to keep, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than ten nor more than five hundred dollars.

**Schedule 95.** Every person, operating what is known as a transient moving picture show to which an admission is charged, in tents or otherwise, shall pay a license tax of fifty dollars (\$50.00)

for the first week and twenty-five dollars (\$25.00) per week for each additional week or portion thereof, for each place where a performance is held, and this license tax shall be payable fifty dollars (\$50.00) in advance of opening for exhibition and twenty-five dollars (\$25.00) in advance, each week, thereafter.

Schedule 96. Every person engaging or continuing in the business of operating a moving picture show, or show of like character to which admission is charged: In cities of thirty-five thousand inhabitants and over, Two Hundred Dollars; in cities and towns of less than thirty-five thousand and not less than seven thousand inhabitants, Fifty Dollars; in all other places Fifteen Dollars, provided that in cities of thirty-five thousand inhabitants or over in which the theater is one mile or more from the city hall the license shall be Sixty Dollars per annum. Moving picture shows under this schedule shall be held to mean a show, the principal featuring of which is moving pictures and for which is required an annual privilege license in Alabama and shall be conducted within a building arranged or constructed for such purpose and no additional license shall be required if other features of entertainment, including vaudeville acts, are given during any period for which an admission is charged. Provided that any motion picture theatre charging children under 16 years of age more than one-half of the admission charged adults shall pay double the amount herein levied under this schedule.

Schedule 97. Each person engaged in the business of selling, renting or delivering pianos, organs, small musical instruments, or all such articles in this State either in person or by agent, consignee or broker, shall pay fifty dollars (\$50.00) as a license to the State for each county in which he has an established place of business, and such license shall permit him to solicit business anywhere in the State, Provided, that where such dealer does not have an established place of business in the State but merely sells or solicits the sale of such articles, he shall pay as a State license twenty-five dollars (\$25.00) in each County. The provisions of this Schedule shall not apply to general merchants selling as a part of their stock in trade small musical instruments, the selling price of which does not exceed ten dollars (\$10.00), Provided, that the license tax on general merchants selling small musical instruments, the selling price of which exceeds ten dollars (\$10.00), but who do not sell pianos or organs, shall be as follows: In counties having a population of thirty-five thousand (35,000) inhabitants or less five dollars (\$5.00); In counties having a population of over thirty-five thousand (35,000) inhabitants and not exceeding fifty thousand (50,000) inhabitants, ten dollars (\$10.00): In counties having a population of over fifty thousand and not exceeding one hundred thousand

(100,000) inhabitants, fifteen dollars (\$15.00): In counties having a population of over one hundred thousand (100,000) inhabitants, twenty (\$20.00). This shall not be construed to entitle a licensee to maintain branch establishments, or stores without payment of regular license of each branch or store, both State and County required under this Schedule.

Schedule 98. Every person, engaged in the business of selling on railroad trains or vehicles in this State, newspapers, periodicals, magazines, candy, fruits, and articles of like character, shall pay a license tax at the rate of twenty cents (\$0.20) per miles per annum for each and every mile of track or roads upon which such person operates in this State, and no county license shall be charged to any person engaged in the business described in this Schedule. The person desiring to engage in such business may take out a separate license for each division of the railroad or other road upon which it is desired to operate, and such license shall entitle the holder to carry on the business herein described on all trains or vehicles running over such division or road, such license shall be paid to the State Tax Commission, and no county license shall be paid. Application for such license shall be accompanied by a sworn statement giving the terminal points on the roads between which it is proposed to operate and the number of miles between such terminal points. Any person who shall have paid the license specified in this schedule shall be entitled to receive a certificate for each agent which he may employ for making such sales showing that such license has been paid, and such certificate shall be exhibited on demand to any officer authorized to collect State revenues, as evidence of the right of the holder to do business and no agent of such license shall carry on such business or make any such sales unless he shall have such certificate with him.

Schedule 99. For each person operating a news stand for the sale of magazines and/or periodicals, five dollars (\$5.00).

Schedule 100. Each oculist, optometrist or optician practicing his profession; in cities or towns of over five thousand (5000) inhabitants shall pay an annual license of twenty-five dollars (\$25.00); in cities or towns of less than five thousand (5000) and more than one thousand (1000) inhabitants, ten dollars (\$10.00); in all other places whether incorporated or not, five dollars (\$5.00); but no license shall be paid to the county. If such business is conducted as a firm or as a corporation in which more than one person is engaged each oculist, optometrist or optician so engaged shall pay the license as above stated, provided that the license imposed by this Section shall not apply until such oculist, optometrist or optician shall have practiced his profession as long as two years.

Schedule 101. Each osteopath or chiropractor practicing his profession shall pay an annual license of twenty dollars (\$20.00)



to the State, but no license shall be paid to the county. If such business is conducted as a firm, or corporation in which more than one person is engaged, each osteopath, or chiropractor so engaged shall pay a license of twenty dollars (\$20.00), provided further, that no osteopath or chiropractor shall be required to pay a license until after he has practiced his profession for two years.

Schedule 102. For each cold storage plant, packing house or refrigerated warehouse used for storage for hire of any food product, or utilized for the storage of any food product in connection with the sale or distribution at wholesale of any such food product, whether the same be owned by the owner of such plant or others, a license fee shall be paid according to the following schedule based on cubic feet of refrigerated space: Less than 25,000 cu. ft.—\$15.00; 25,000 and not over 50,000 cu. ft.—\$20.00; 50,000 and not over 100,000 cu. ft.—\$25.00; 100,000 and not over 200,000 cu. ft.—50.00; 200,000 cu. ft. and over—100.00. For operating refrigerating pipe line for purpose of refrigerating rooms, premises, goods, wares or merchandise of others for profit, \$75.00.

Schedule 103. Each pawnbroker, two hundred and fifty dollars (\$250.00) for each place of business, but if such pawnbroker sells pistols or sawed-off shot guns or revolvers however acquired, he shall pay the additional license required for dealers in pistols and/or sawed-off guns and/or revolvers by this Act.

Schedule 104. For every itinerant vendor, or peddler, who shall sell or offer for sale any drugs, ointments or medical preparations intended for treatment of any disease or injury, who shall by speech, writing or printing, or any other method provided to treat or cure disease or injury, or deformity, by any drug nostrum or medical preparation shall pay an annual license of Two Hundred and Fifty Dollars (\$250.00) to the State and One Hundred and Twenty-five Dollars (\$125.00) in each county where he does business. But the license taken out under this Schedule will not be so construed as to authorize the licensee to practice medicine or treat persons for diseases. (b) Each itinerant vendor or peddler of medicine or other articles of like character shall pay an annual license of fifty Dollars (\$50.00) to the State and Fifty Dollars (\$50.00) to each county in which they do business. Provided that the payment of the license under this Schedule shows no authority for engaging in any business for which a higher license is in this Act required without the payment of a higher license.

Schedule 105. For every photograph gallery, or person engaged in photography, when the business is conducted at a fixed location: In cities and towns of seventy-five thousand (75,000) inhabitants and over, Twenty-five Dollars (\$25.00); in cities and towns of less than seventy-five thousand (75,000) and not less than forty thou-

sand (40,000) inhabitants, fifteen dollars (\$15.00); in cities and towns of less than forty thousand (40,000) and not less than seven thousand (7000) inhabitants, ten dollars (\$10.00); in cities and towns of less than seven thousand (7000) and over one thousand (1000) inhabitants, five dollars (\$5.00); in all other places whether incorporated or not, three dollars (\$3.00) The payment of the license required in this Schedule shall authorize the doing of business only in the town, city, or county where paid. For each transient or traveling photographer, five dollars (\$5.00) per week.

Schedule 106. Each person engaged in the practice of medicine, chemistry, bacteriology, roentgenology, or other similar profession, in cities or towns of over five thousand inhabitants shall pay an annual license of twenty-five dollars (\$25.00); in cities or towns of less than five thousand and more than one thousand inhabitants, ten dollars (\$10.00); in all other places whether incorporated or not, five dollars (\$5.00), but no license shall be paid to the county. If such business is conducted as a firm or as a corporation in which more than one person is engaged, each person so engaged shall pay the license as above stated. Provided that the license imposed by this Section shall not apply until such person shall have practiced his or her profession as long as two years.

Schedule 107. Any person operating yards or enclosures for the purpose of storing pig iron therein, and selling warrants thereon, or receipts therefor, for each yard or enclosure, fifty dollars (\$50.00).

Schedule 108. For persons dealing in pistols, revolvers, maxim silencers, bowie knives, dirk knives, brass knucks, or knucks of like kind, whether principal stock in trade or not; in cities and towns of thirty-five thousand (35,000) inhabitants and over, one hundred and fifty dollars (\$150.00); in all other places, one hundred dollars (\$100.00). All persons dealing in Pistols, revolvers and maxim silencers, shall be required to keep a permanent record of the sales of every pistol, revolver or maxim silencer, showing the date of sale, serial number, or other identification marks, manufacturer's name; caliber and type, and also the name and address of the purchaser, which record shall always be open for inspection by any peace officer of the State of Alabama or any municipality thereof. The failure to keep such record shall subject such person to having his license revoked by the Probate Judge of the county where such license was issued on motion of any Circuit or Deputy Solicitor of the State of Alabama.

Schedule 109. Upon every pack of playing cards, containing not more than fifty-four (54) cards, a tax of One Cent (\$0.01) on each Five Cents (\$0.05) or fractional part thereof of the retail selling price. Such tax to be evidenced by revenue stamps and the stamps in all cases to be affixed to the individual package with the initials on the

stamps of the person selling such cards, written with indelible pencil. Revenue stamps required to be affixed as herein provided, the cancellation of such stamps by the retailer, penalty for failure to affix and cancel are subject to the provisions of Article XIII, Chapter 7, of this Act, so far as applicable, as fully as if written herein. In addition to above tax, each dealer shall pay for the privilege of selling playing cards, an annual license of two dollars (\$2.00).

Schedule 110. Each person doing business as a plumber, steam fitter, or operator of a tin shop or roofing shop, in towns or cities of fifty thousand inhabitants, or over, twenty-five dollars (\$25.00); in cities and towns of ten thousand inhabitants and less than fifty thousand inhabitants, fifteen dollars (\$15.00); in cities and towns of less than ten thousand inhabitants, ten dollars (\$10.00); in all other places, whether incorporated or not, five dollars (\$5.00).

Schedule 111. For each pool table upon which the game of pin pool, bottle pool or starboard pool, or other like device is played, one hundred dollars (\$100.00). For each table upon which the game of pool or billiards is played with fifteen balls or more or less, and not pin-pool, Twenty-five Dollars (\$25.00). Provided that the provisions of this Schedule shall not apply to pool or billiard tables operated or owned by private individuals and used in their homes, or pool or billiard tables operated or owned by private clubs, social clubs, or Y. M. C. A.'s when no charge is made for playing thereon.

Schedule 112. For each public hall let to hire, in cities of five thousand inhabitants or more, twenty-five dollars (\$25.00); of less than five thousand and more than two thousand inhabitants, fifteen dollars (\$15.00); in all places whether incorporated or not, of two thousand inhabitants or less, ten dollars (\$10.00). But the provisions of this Schedule shall not apply to public halls owned by the city or town, or by any publicly owned and operated school or college.

Schedule 113. Each raffle board, punch board, "tip" board or raffle or chance card or ticket, by whatever name called, shall have securely pasted thereon a revenue tax of a denomination equivalent to ten per centum (10%) of the amount to be derived from the sale of all of the punches or tips thereon, and no tips or punches shall be detached from said boards or cards until after such stamps shall have been so affixed and cancelled. Such license tax stamps to be securely affixed to each of such boards and cancelled and the penalty for failure to so affix and cancel such stamps shall be governed by the provisions of Article XIII, Chapter 7, of this Act, and this Schedule shall be subject to all of the provisions of said Chapter as may be applicable hereto. Provided that none of the provisions herein will be taken as legalizing the operation of any such boards.

**Schedule 114.** Each person whether principal or agent, engaged in selling, either at wholesale or retail, fruits, vegetables, produce or other commodities, from cars standing on the sidetrack, unloading tracks, spurtracks or any other track of any railroad or railway, shall pay the following privilege tax: In each city or town, on each car, twenty-five dollars (\$25.00). Provided, that when the above privilege tax is paid to the Probate Judge he shall be furnished with the name of the railroad or railway owning the car in which the commodity to be sold is stored and the number of the car, and said name and number shall be written in the license issued, which license shall be posted in a conspicuous place on the car. Provided further, that any person whether principal or agent, shall be liable for the above tax on each transfer, if fruits, vegetables, produce or other commodities shipped in carload lots or less for the purpose of being sold from the car either at wholesale or retail, when the same is delivered to consignee, and the car shall not be opened for the purpose of making sales of its contents until the tax above classified is paid. Provided this act shall not apply to any regular jobber, wholesaler, or broker who regularly conducts a business of this nature and who sells only in wholesale quantities, and provided further, that the provisions of this section shall not apply to any persons engaged in selling farm products or produce raised by himself, provided he furnishes proof thereof. Any person violating the provisions of this Schedule shall be guilty of a misdemeanor and punished as provided by law.

**Schedule 115.** The owner, conductor, or person in charge of every supply car or cars from which any goods, wares or merchandise are sold, whether to servants of the railroad company, or to others, must pay a license of one hundred dollars (\$100.00); and the person so licensed shall thereby be entitled to carry on such business in the car therein named in any county in which such car is run or drawn; upon payment of an additional license of five dollars (\$5.00) in each county where goods are sold.

**Schedule 116.** Each owner or lessee of an athletic field, race track or place where races of any kind are held, or where admission fees charged are in excess of fifty cents (\$0.50): In cities or towns of less than ten thousand (10,000) inhabitants, or within five miles thereof, Ten Dollars (\$10.00); in cities or towns of ten thousand (10,000) and less than twenty-five thousand (25,000) inhabitants, or within five miles thereof, Twenty-Five Dollars (\$25.00); In cities of twenty-five thousand (25,000) inhabitants and less than fifty thousand (50,000) inhabitants or within five miles thereof, Fifty Dollars (\$50.00); In cities of fifty thousand (50,000) inhabitants or more or within five miles thereof, One Hundred Dollars (\$100.00); Provided that this Schedule shall not apply to race tracks used exclusively by any county or state fair or athletic fields

owned or maintained in good faith by educational institutions located in this State. Provided Further, that the provisions of this Act permitting the payment of half year license after April 1st shall not apply to this Schedule.

Schedule 117. Every person engaged in the business of selling radios or other receiving or transmitting machines, shall pay the following annual privilege tax: In cities of over fifty thousand (50,000) inhabitants, Twenty-Five Dollars (\$25.00); in cities of over fifteen thousand (15,000) inhabitants and not exceeding fifty thousand (50,000) inhabitants, Fifteen Dollars (\$15.00); in cities and towns of over five thousand (5,000) inhabitants and not exceeding ten thousand (10,000) inhabitants, Ten Dollars (\$10.00); in cities or towns of over one thousand (1,000) inhabitants and not exceeding five thousand (5,000) inhabitants, Five Dollars (\$5.00); in all other places, whether incorporated or not, Three Dollars (\$3.00).

Schedule 118. Each person, engaged in buying, selling, or renting real estate on commission, when such real estate is situated in this State shall pay to the State the following license tax: In cities and towns of ten thousand inhabitants and over, Fifteen Dollars; in cities and towns of less than ten thousand and more than five thousand inhabitants, Ten Dollars (\$10.00); in all other places, Five Dollars (\$5.00).

Schedule 119. Every person who shall sell, or who shall offer to sell, in this State, any lots or land situated in another state, or who offers to sell at auction or advertises any auction sale of town lots, or the sale by auction or otherwise, or lots in any subdivision of lands, situated in another state, shall pay an annual license to the State of Five Hundred Dollars (\$500.00). Before any license shall be issued under this Schedule, the party desiring to obtain such license shall cause to be recorded at his own expense on the deed records in the office of the Probate Judge of the county in which the license is applied for, a full description of the lands or lots so offered for sale, together with the location of same, and if the lands have been divided into lots, shall at his own expense file a map of said sub-division, which shall be recorded upon the plat book of the county in the office of the Judge of Probate and reference to said plat book shall be made on the deed records and noted in the general direct and reverse index of said county. The applicant shall also file and cause to be recorded at his own expense, in the office of the Probate Judge, evidence of the ownership of the vender of said lands or lots, the character and extent of such ownership, together with a statement of any and all mortgages or other liens which may exist thereon.

Schedule 120. For each restaurant, cafe, cafeteria, lunch counter or public eating house where meals, food or refreshments are furnished or served and charged for: In cities of over forty thousand

(40,000) inhabitants: where the seating capacity does not exceed ten (10) people, Ten Dollars (\$10.00); where the seating capacity is over ten (10) people and does not exceed twenty (20) people, Fifteen Dollars (\$15.00); where the seating capacity is over twenty (20) people and not exceeding thirty-five (35), Thirty Dollars (\$30.00); where the seating capacity is thirty-five (35) people and over, Fifty Dollars (\$50.00). In cities of fifteen thousand (15,000) and not over forty thousand (40,000) inhabitants: Where the seating capacity does not exceed ten (10) people, Seven Dollars and Fifty Cents (\$7.50); where the seating capacity is over ten (10) people and does not exceed twenty (20) people, Twelve Dollars and Fifty Cents (\$12.50); where the seating capacity is over twenty (20) people and not exceeding thirty-five (35), Twenty-five Dollars (\$25.00); where the seating capacity is thirty-five people and over, Thirty-five Dollars (\$35.00). In cities or towns of over five thousand (5,000) and less than fifteen thousand (15,000) inhabitants: Where the seating capacity does not exceed ten people, Five Dollars (\$5.00); where the seating capacity is over ten people and does not exceed twenty people, Ten Dollars (\$10.00); where the seating capacity is over twenty people and not exceeding thirty-five, Fifteen Dollars (\$15.00); where the seating capacity is thirty-five people and over, Twenty-five Dollars (\$25.00). In all other places of five thousand (5,000) and under whether incorporated or not: Where the seating capacity does not exceed ten people, Five Dollars (\$5.00); where the seating capacity is over ten people and does not exceed twenty people, Seven Dollars and Fifty Cents, (\$7.50); where the seating capacity is over twenty people and not exceeding thirty-five, Ten Dollars (\$10.00); where the seating capacity is thirty-five people or over, Fifteen Dollars (\$15.00). Seating capacity shall be computed as of October 1st, provided that if a restaurant, cafe, cafeteria, lunch counter, or other public eating house should increase its seating capacity after paying the license tax as above provided, before January 1st, next, they shall be liable for additional tax based on above schedule; should the seating capacity be increased after January 1st and before April 1st they shall be liable for an additional tax based on the acquired number of seats, but shall be taxed only for three-fourths of the additional tax; should the seating capacity be increased after April 1st, they shall be liable for one-half of the additional tax based on the then acquired seating capacity. Provided the foregoing schedule shall not apply to regular druggist or operators of ice cream parlors paying a soda fountain license, and who serve sandwiches, but do not serve meals or lunches, nor to employers operating on their own premises non-profit restaurants or lunch rooms for the service of meals and lunches to their employees. Provided further, that hotels operating two restaurants or dining rooms, in connection

with the hotel and under the same ownership or management, shall compute their seating capacity on the combined seats of both restaurants or dining rooms and shall be required to secure only one license. Provided that the provisions hereof shall not apply to restaurants, cafes, cafeterias or lunch counters operated in connection with, by or as a part of any school, college or university.

Schedule 121. Every place commonly known as a roadhouse, night club, public dance hall or place by any other name, where the general public is permitted to dance, whether a charge is made or not made therefor, within incorporated cities or towns or within the police jurisdiction thereof; Twenty Five Dollars (\$25.00). In all other places Fifty Dollars (\$50.00).

Schedule 122. Each sandwich shop, barbecue stand or pit, hamburger or hot dog stand, Five Dollars (\$5.00).

Schedule 123. Each person, firm or corporation engaged in operating a saw mill shall pay a privilege tax according to capacity, as follows: Those having a capacity of five thousand feet or less per day, ten dollars; those having a capacity of more than five thousand and not exceeding ten thousand feet per day, twenty-five dollars; those having a capacity of more than ten thousand and not exceeding twenty-five thousand feet per day, fifty dollars; those having a capacity of more than twenty-five thousand feet and not exceeding fifty thousand feet per day, one hundred dollars; those having a capacity of more than fifty thousand feet per day and not over one hundred thousand, two hundred dollars; those having a capacity of one hundred thousand and not over one hundred fifty thousand, three hundred dollars; those having a capacity of more than one hundred fifty thousand, and not more than two hundred thousand, four hundred dollars; and those having a capacity of more than two hundred thousand feet, five hundred dollars. provided only one State license shall be paid by the operator or owner of any saw mill.

Schedule 124. Each scientist, naturapath or chiropodist practicing his profession shall pay an annual license of Ten Dollars (\$10.00) to the State, but no license shall be paid to the county. If such business is conducted as a firm, or corporation in which more than one person is engaged, each scientist, naturapath or chiropodist so engaged shall pay a license of Ten Dollars (\$10.00), provided further, that no scientist, naturapath or chiropodist shall be required to pay a license until after he has practiced his profession for two years.

Schedule 125. Each person selling or delivering sewing machines, either in person or through agents shall pay Twenty-five Dollars annually to the State for each county in which they may sell or deliver sewing machines. And for each wagon and team or motor vehicle used in delivering or displaying the same, an addi-

tional license shall be paid to the State of Ten Dollars (\$10.00). Provided, that a merchant carrying sewing machines as a part of his stock in trade, and whose principal business is not selling sewing machines, shall not be required to pay this license.

Schedule 126. Each person operating a shooting gallery shall pay an annual license of Twenty Dollars (\$20.00), but such license may be taken out for one month, in which case the license shall be Five Dollars (\$5.00) per month.

Schedule 127. For each skating rink an Annual State license of Twenty Five Dollars (\$25.00), and a county license of Five Dollars (\$5.00) for every county in which same is operated or conducted.

Schedule 128. For each person engaged in the business of selling at retail cereal beverages, carbonated or other soft drinks, kept on hand and sold in bottles, shall pay an annual license of Two and One-half Dollars (\$2.50).

(a) Each person engaged in the business of selling soft drinks in a store or stand, conducting what is commonly known and called a soda fountain, including the right to sell at retail cereal beverages, carbonated or other soft drinks, kept on hand and sold in bottles, shall pay annually the following license: In unincorporated places, and towns and cities of not over five thousand (5,000) inhabitants, Ten Dollars (\$10.00); in cities and towns of over five thousand (5,000) and not over fifteen thousand (15,000) inhabitants, Fifteen Dollars (\$15.00); in cities of over fifteen thousand not over twenty-five thousand inhabitants, Twenty Dollars (\$20.00); in cities of more than twenty-five thousand inhabitants, Twenty-five Dollars (\$25.00).

Schedule 129. Each person engaged in the business of selling at wholesale non-alcoholic, carbonated, or other soft drinks, shall pay an annual license of Fifty Dollars (\$50.00). Provided that bottlers who have taken out the bottle license for operating plants in this State shall not be liable under this Schedule, nor shall such bottlers be liable for any county or state license under Schedule 146 hereof, nor as transient vendors or dealers or peddlers.

Schedule 130. For each person selling spectacles or eye glasses: In cities or towns of fifty thousand (50,000) inhabitants and over, Twenty-five Dollars (\$25.00); in cities or towns of fifteen thousand (15,000) inhabitants and less than fifty thousand (50,000) inhabitants, Fifteen Dollars (\$15.00); in cities and towns of over five thousand (5,000) inhabitants and less than fifteen thousand (15,000) inhabitants, Ten Dollars (\$10.00); in all other places whether incorporated or not, Five Dollars (\$5.00).

Schedule 131. For each person peddling spectacles or eye glasses, Fifty Dollars (\$50.00).

Schedule 132. For each person dealing in stocks and bonds, fifty dollars (\$50.00). The payment of license required by this



Schedule shall authorize the doing of business in the town, city or county where paid.

Schedule 133. Each person operating or conducting an exhibition commonly termed "Street Fair" or "Carnival" shall pay to the State a license as follows: For an exhibition operating or composed of or controlling or embracing not more than ten exhibitions or devices three hundred dollars (\$300.00); but where more than ten and not exceeding twenty-five (25) devices, four hundred dollars (\$400.00); and where there are more than twenty-five (25) devices, seven hundred and fifty dollars (\$750.00); for each place where said street fair is conducted. This license shall entitle the street fair to be operated for a period of not exceeding two weeks in any one place at any one time. Provided that where such street fair or carnival is operated by or under the auspices of State Fairs, County or District Fairs, the license shall be one-half of the above amounts. Provided that a State, County or District Fair shall be construed to mean a corporation or association composed of ten or more persons, which shall have been organized at least six months prior to the holding of the Fair, and which holds an annual fair and at which not less than twenty exhibits of agricultural, livestock or mineral products are shown and upon which prizes are offered.

Schedule 134. Each person operating or conducting a factory, plant or refinery where syrup or sugar is made, manufactured or refined, shall pay a license based on the capital invested in plant, equipment, finished materials and raw materials, as follows: Where the capital so invested is over one hundred thousand dollars, one hundred dollars (\$100.00); where the capital so invested is over seventy-five thousand dollars and not exceeding one hundred thousand dollars, seventy-five dollars (\$75.00); where the capital so invested is over fifty thousand dollars and not exceeding seventy-five thousand dollars, fifty dollars (\$50.00); where the capital so invested is over twenty-five thousand dollars and not exceeding fifty thousand dollars, forty dollars (\$40.00); where the capital so invested is over ten thousand dollars and not exceeding twenty-five thousand dollars, twenty-five dollars (\$25.00); where the capital so invested is over five thousand dollars and not exceeding ten thousand dollars, fifteen dollars; where the capital so invested is over two thousand dollars and not exceeding five thousand dollars, ten dollars; where the capital so invested is over one thousand dollars and not exceeding two thousand dollars, five dollars (\$5.00).

Schedule 135. For each machine, device and/or table, which is operated or played by depositing a coin or slug in a slot, and on which music is played, and/or on which games of skill are played, and/or on which balls drop in holes or sockets, and/or on which a person is weighed, shall pay the following license: Machine having a penny-in-the-slot device used for weighing, one dollar

(\$1.00); all other penny-in-the slot machines, five dollars (\$5.00); machine having a nickel-in-the-slot device, twenty-five dollars (\$25.00). Machine having a device in which a coin of a larger denomination than a nickel is required or may be used to operate the machine, Fifty Dollars (\$50.00). Provided this schedule shall not apply to slot devices on lock on doors, motors, electric fans, telephones, postage stamps vending machines, drinking cup, electricity or gas vending machines or meters. The license herein required shall be for the operation of the particular machine for which issued and shall be attached to or securely pasted in a conspicuous place on such machine. A licensed machine may be transferred to any other place in the same county. Provided such transfer of location is filed with the Probate Judge and posted by him on his licensed stub. If any machine is found in or at any place of business which has not been licensed, the owner, proprietor or operator of such establishment, store, or place of business in which said machine is located shall be liable for said license. Provided that none of the provisions herein shall be taken or construed as legalizing the operation of such machines, devices or tables.

Schedule 136. Each machine or device which is operated or played by depositing a coin or slug in a slot and operating a lever, handle, crank or other device, causing wheels or discs to revolve, spin, turn or move and which dispenses coins, slugs or trade checks, or by certain combinations the owner or lessee of said device gives the person playing or operating such device or machine any prize, cash or other emolument of gain, shall pay the following license; Machine having a nickle-in-the-slot device, One Hundred Dollars (\$100.00); Machines having a dime-in-the-slot device, One Hundred Fifty Dollars (\$150.00); Machines having a quarter-in-the-slot device, Two Hundred Dollars (\$200.00); Machines having a slot device for coins of over a quarter, Three Hundred Dollars (\$300.00). Provided this schedule shall not apply to slot devices on lock on doors, meters, electric fans, telephones, postage stamp vending machines, drinking cup, electricity or gas vending machines or meters. The license herein required shall be for the operation of the particular machine for which issued and shall be attached to or securely posted in a conspicuous place on such machine. A licensed machine may be transferred to any other place in the same county. Provided such transfer of location is filed with the Probate Judge and posted by him on his license stub. If any machine is found in or at any place of business which has not been licensed, the owner, proprietor or operator of such establishment, store or place of business in which said machine is located shall be liable for said license. Provided this schedule shall not be construed as legalizing the possession, operation or rental of such machines or devices, not already legalized by the State of Alabama.

Schedule 137. Any person engaged in the management of business matters occurring between the owners of vessels, railroads, airplanes, motor vehicles and express companies and the shippers or consignors of the freight and the passengers which they carry, shall be deemed a "Soliciting Broker" for the purpose of this Schedule. Every such person shall pay for the privilege of transacting such business, Fifty Dollars (\$50.00).

Schedule 138. As used in this Act, the term "lubricating oil" shall include any devices or substitutes therefor, commonly used in lubricating or oiling engines, bearings, journals, axles, hubs and other parts of machinery; provided, however, that nothing contained in this Act shall be held to apply to those products known commercially as "kerosene oil", "fuel oil", or "crude oil". The word "person" shall include persons, corporations, co-partnerships, companies, agencies or associations, singular or plural. The term "distributor" shall include any person or manufacturer who engages in the selling of lubricating oil in this State by wholesale domestic trade, but shall not apply to any transaction by such distributor in interstate commerce. The term "retail dealer" shall include any person herein defined as distributor who is also engaged in the selling of lubricating oils in this State at any place in this State in broken quantities. The term "storer" as herein used shall include any person who ships, causes to be shipped or brings into this State, or manufacturers in this State, lubricating oils, as herein defined, in any quantity, stores the same in any container and withdraws same from storage for any purpose.

Schedule 138.1. Every distributor, manufacturer, retail dealer or storer of lubricating oil, as herein defined shall pay an excise tax of two cents per gallon upon the selling, distribution or withdrawing from storage in this State for any use, lubricating oil as herein defined, provided, however, that this excise tax shall not be levied upon the sale of lubricating oil in interstate commerce, and provided further that where the excise tax of two cents per gallon upon the sale of such lubricating oil shall have been paid by a distributor, manufacturer, retail dealer or storer, such payment shall be sufficient, the intention being that the tax shall be paid but once.

Schedule 138.2. The excise tax imposed by this Act shall apply to persons, firms, corporations, dealers or distributors, storing lubricating oil and distributing the same or allowing the same to be withdrawn from storage, whether such withdrawals be for sale or for other use; provided, that "sellers" of lubricating oils and its substitutes paying the tax herein provided may pay the same computed and paid on a basis of their sales as hereinafter required and storers and distributors shall compute and pay this tax on the basis of their withdrawals or distributions.

Schedule 138.3. Wholesale Oil. Each person, firm, corporation or agency selling illuminating, lubricating, or fuel oils at wholesale, that is to say in quantities of twenty-five gallons or more, shall pay to the State Tax Commission for the use of the State, within two weeks from the beginning of the fiscal year, the sum of one half of one percentum on his gross sales for the preceding fiscal year, and such payment to the State Tax Commission shall be accompanied by a sworn statement verified by the person having knowledge of the facts showing the amount of the gross sales of such oils sold in the State during the preceding fiscal year. No county license shall be charged under this schedule. A copy of said statement shall at the same time be filed with the State Tax Commission. The books of such person so engaged in such business shall be accurately kept and shall show the date, character and quantity of such oils, received by him for sale in this State, and the name and post office address of the person from whom received, and said books shall also show the date, character and quality of each sale made, together with name and address of the person to whom sold; and when consigned to an agent for sale in this State, the date, character and quantity of such consignment, together with the name and address of such agent, and place of consignment. Such books shall always be open to inspection of the State Tax Commission. Any person failing to make such sworn statement, or making a false statement, or failing to keep his books in substantial compliance with this schedule, shall be guilty of a misdemeanor and upon conviction therefor shall be fined not exceeding five hundred dollars, and also forfeit to the State three times the amount of said license on such gross sales, but no tax shall be paid to the county.

Schedule 138.4. The statement herein required to be made by the distributor, manufacturer, storer or retail dealer shall be sworn to before some officer authorized to administer oaths and any false or fraudulent statement sworn to shall constitute perjury and upon conviction thereof the person so convicted shall be punished as provided by Section 5161 of the Code of Alabama.

Schedule 138.5. All distributors, manufacturers, storers or retail dealers shall keep, for not less than two years, within the State of Alabama, at some certain place or office such books, documents or papers as will clearly show the amount of sales or withdrawals of any oils, greases or their substitutes made in this State covered by this Schedule.

Schedule 138.6. Within thirty days after the passage of this Act, every distributor, storer or retail dealer engaged in the sale or withdrawal of any oils, greases or their substitutes as herein defined, shall make a report on blanks furnished by the State Tax Commission to the State Tax Commission showing the place and

post office address at which he is engaged in the business of distributor or storer or retail dealer or manufacturer in any oils, greases or their substitutes as herein defined, which information shall be entered by the State Tax Commission on a book kept for that purpose, and should such distributor, manufacturer, storer or retail dealer move his place of business from one post office address to another, such distributor, manufacturer, storer or retail dealer shall within thirty days thereafter notify the State Tax Commission of such removal, giving the former place and post office address from which the business has been removed. After this Act becomes effective no person shall become distributor, manufacturer, storer or seller of any oils, greases or their substitutes as herein defined in this Schedule, in this State until he shall have made such reports to the State Tax Commission.

Schedule 138.7. If any distributor, manufacturer, storer or retail dealer in any oils, greases or their substitutes in this State covered by the provisions in this Act shall fail to make the reports, or any of them, to the State Tax Commission as herein required or shall fail to keep the records required by this Act, such distributor, manufacturer, storer or retail dealer shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than Fifty Dollars (\$50.00) nor more than Three Hundred Dollars (\$300.00) for each offense.

Schedule 138.8. It shall be the duty of the State Tax Commission to enforce the provisions of this Schedule and the State Tax Commission shall have the right itself or by any of its members or its agents to examine the books, reports and accounts of every such distributor, manufacturer, storer or retail dealer of any oils, greases or their substitutes covered in this Schedule.

Schedule 138.9. The proceeds of the excise tax levied by this Schedule shall, when collected, be covered into the State Treasury to the credit of the State General Fund.

Schedule 138.10. The acceptance of any money paid for the excise tax provided for in this Schedule shall in no way preclude the collection of the money actually due, provided, however, that the money actually paid shall constitute a credit against the money actually due.

Schedule 138.11. The forms for all statements and reports required by the provisions of this Schedule shall be prescribed and furnished by the State Tax Commission and the cost of the enforcement of this Schedule shall be paid out of the funds derived from the excise tax herein prescribed upon a warrant of the State Comptroller upon a voucher of the Chairman of the State Tax Commission and approved by the Governor.

Schedule 138. 12. If a distributor, manufacturer, storer or retail dealer of any oils, greases or their substitutes covered by this

Schedule shall fail to make the monthly returns prescribed herein the State Tax Commission shall make a return for such delinquent upon such information as it may reasonably obtain, assess the excise tax thereon, and add a penalty for failure to make such returns of twenty-five per cent (25%) of the tax due, to the amount as assessed by the Commission.

Schedule 138. 13. If any tax levied by this Schedule is not paid within thirty days after the same becomes due the State Tax Commission shall from such information as may be available, find and determine the amount due and shall notify the taxpayer that unless payment is made within ten days, execution will be issued. At the end of such ten days the State Tax Commission shall make final such amount and shall issue execution for the collection of such tax directed to any sheriff of the State of Alabama, who shall proceed to collect the same in the manner now provided by law for the collection under execution issued by any court of record and the sheriff shall make return of such execution to the State Tax Commission within thirty days after receipt thereof. The tax and all penalties herein provided for shall be held as a debt payable to the State of Alabama by the person against whom the same shall be charged and all the tax and penalties shall be lien superior to all other liens other than tax liens due the State of Alabama at the time this lien accrues.

Schedule 138. 14. Any distributor, manufacturer, storer or retail dealer who shall violate any of the provisions of this Schedule may be restrained and the proper prosecution instituted in the name of the State of Alabama by its Attorney General or under his direction by any circuit solicitor of the State from distributing, selling or withdrawing from storage any oils, greases or their substitutes as defined in this Schedule, the sale or withdrawal of which is taxable under this Schedule, until such person shall have complied with the provisions of this Schedule.

Schedule 138. 15. On or before the 20th of each calendar month after this Schedule is effective, every person liable hereunder shall render to the State Tax Commission a true and correct statement of all sales and withdrawals of the products herein taxed and at the same time pay to the Tax Commission an amount of money equal to the excise tax herein levied.

Schedule 138. 16. This schedule shall be effective on the first of the calendar month next succeeding its passage.

Schedule 139. For each person selling or dealing in tear gas bombs or other bombs, machine guns, or sawed-off guns, five hundred dollars (\$500.00). Provided this Schedule shall not be construed as legalizing the sale or rental of such articles.

Schedule 140. Each person engaged in conducting a theatre, vaudeville or variety show, and each person conducting any other

exhibition, show, entertainment, or performance to which an admission is charged and not in this Chapter otherwise licensed, shall pay an annual license for each place of business as follows: In towns and cities of three thousand inhabitants or less, and in unincorporated places, five dollars (\$5.00); in cities of more than three thousand (3000) and less than seven thousand (7000) inhabitants, ten dollars (\$10.00); in cities of seven thousand (7000) and less than twenty thousand (20,000) inhabitants, twenty dollars (\$20.00); in cities of twenty thousand (20,000) and less than thirty thousand (30,000) inhabitants, twenty-five dollars (\$25.00); in cities of thirty thousand (30,000) inhabitants or more, thirty-five dollars (\$35.00).

Schedule 141. Each person engaged in the business of selling tickets at a price greater than that advertised and who is commonly known as a "ticket scalper" one hundred dollars (\$100.00).

Schedule 142. Each person operating a public tourist camp, where transient guests are lodged for pay shall be deemed for the purpose of this Schedule, engaged in the business of keeping or operating a tourist camp and shall pay the following license or privilege tax: Each camp containing not over five beds, fifteen dollars (\$15.00); each camp containing over five and not exceeding fifteen beds, twenty-five dollars (\$25.00); each camp containing over fifteen beds, thirty-five dollars (\$35.00) and one dollar (\$1.00) for each additional bed over fifteen.

Schedule 143. Every person who engages in or carries on the business of issuing or selling to merchants, trading stamps, or any device or substitute therefor, or any stamps or certificates of like character which are to be given by merchants to purchasers of goods, wares or merchandise and which said stamps, certificates or devices, or substitute therefor, the person issuing or selling the same agrees to accept in payment for goods, wares, and merchandise kept on hand by himself or another for redemption or for distribution by the person issuing or selling such stamps or certificates, shall pay to the State of Alabama a privilege or license tax of three per cent on the gross receipts for such business, and such license or privilege tax shall in no event be less than one thousand dollars. The said tax shall be paid in the following manner: Any person desiring to engage in such business shall pay on or before the fifteenth day of the fiscal year to the State Tax Commission, the sum of one thousand dollars, and shall also at the same time execute a bond, payable to the State of Alabama, to insure the payment to the State Tax Commission of the State of a privilege or license tax of three per cent of the gross receipts of such business in this State for one year. Any person who takes out a license and pays therefor the sum of one thousand dollars, shall on the first day of the fiscal year make out a sworn return to the

State Tax Commission of all trading stamps, certificates or similar devices issued or sold that year, giving the name and address of every merchant or mercantile establishment which has bought or had issued trading stamps by the person making the return, and if it appears therefrom that the three per cent of the amount received from the issue or sale of trading stamps during the year exceeds the sum of one thousand dollars, then such person shall pay to the State Tax Commission the excess of said amount, but if such three per cent does not exceed the sum of one thousand dollars, then no further payment shall be made, and said bond shall thereafter be null and void. It shall be a misdemeanor punishable by a fine of not exceeding one thousand dollars for any person to issue trading stamps or certificates, or any device of like character, without having complied with the terms of this Schedule, and said license or any part thereof herein required to be paid may be collected by attachment in any court of this State.

Schedule 144. Each person engaged in the business of transferring passenger or baggage to and from dwellings or hotels, to and from railroad depots, bus stations, air port landings, docks, wharves, or boat landings, operating more than one vehicle, in cities and towns of over five thousand (5000) inhabitants, ten dollars (\$10.00) for each vehicle in excess of one. This shall not apply to U-Drive-It Vehicles, Taxi Cabs, or Jitneys.

Schedule 145. Each person transferring freight, not including household goods, using more than one vehicle for hire in cities or towns or in the police jurisdiction thereof shall pay a license of ten dollars (\$10.00) for each vehicle in excess of one.

Schedule 146. Each person traveling on an animal or using a vehicle other than a motor vehicle, doing business as a transient vendor or peddler as defined in this Schedule, displaying, selling or offering to sell any goods, wares or merchandise, other than to a merchant for resale, shall pay a privilege license to the State of Fifteen Dollars (\$15.00) and Five Dollars (\$5.00) for the county in each county in which such transient vendor or peddler does business for each vehicle. Each person using a motor vehicle, doing business as a transient vendor or peddler as defined in this schedule displaying, selling or offering to sell any goods, wares or merchandise of whatever nature, at retail shall pay to the State in order to engage in such business the following privilege licenses: Upon one motor vehicle, the annual license of one hundred dollars (\$100) for each such motor vehicle, not in excess of one, so used; upon two motor vehicles, or more, but not to exceed three, the annual license fee shall be \$130.00 for each such additional motor vehicle; upon more than three motor vehicles, but not to exceed six, the annual license fee shall be \$150.00 for each such additional motor vehicle; upon each motor vehicle in excess of six, \$200.00



for each such additional motor vehicle. In addition to the above there is levied a license for each county in which said business is conducted of fifty per cent of the amounts levied as a state license. Rolling stores which are controlled or held with others by stock ownership of 25% or ultimately controlled or directed by one management or association of ultimate management, shall be deemed for the purpose of this schedule as being owned by the same person. Each person going from person to person, place to place or town to town, selling or giving away medicine, salves, ointments, lotions or other goods, wares or merchandise, by exhibitions, shows, performances or other entertainment, whether sold for himself or another, in each county where such sales or gifts are made, shall pay a license of one hundred dollars. Definition of Transient Vendor Or Peddler: When used in this Schedule, the words "transient vendor or peddler" shall be held to include any person embraced in any of the following classifications: (a) All persons commonly and generally termed "peddlers" and falling within the usual and commonly understood definition of "peddler"; or (b) all persons acting for themselves or as an agent, employee or salesman, or in any capacity for another, whether as owner, bailee, or other custodian of goods, wares and merchandise, going from person to person, house to house, or place to place and selling or offering to sell, other than to a retail merchant for resale, goods, wares and merchandise; or (c) All persons who do not keep a regular place of business, open at all times in regular business hours at the same place, going from person to person, house to house, or place to place, or from town to town, and selling or offering for sale, other than to a retail merchant, goods, wares and merchandise which they carry with them and who deliver the same at the time of or immediately after the sale; or (d) All persons who go from person to person, house to house, place to place, soliciting orders, other than from a retail merchant for resale, by exhibiting samples, or taking orders and thereafter making delivery of the goods or filling the order, without carrying or sending the order to the permanent place of business. This Schedule shall not apply to a person, or to any member of his immediate household, selling or offering to sell dairy, poultry, or farm products raised, produced or grown by himself, or the immediate members of his household, or such products preserved, bottled, or canned by himself, or the immediate members of his household, or to peddlers of wood, or charcoal or to peddlers of fruit or vegetables, or to blind persons when baskets or push carts are the only method of conveyance used, also, this schedule shall not apply to those selling fish, shrimp, crabs or other sea foods, candy and peanuts. These, and none other, shall be exempt from the payment of the license tax levied by this schedule. The payment of the privilege license required by

this Schedule shall not authorize any transient vendor or peddler to sell any goods, wares or merchandise for which a higher or specific license is required without the payment of such license in addition to the license herein levied, or to sell any goods, wares or merchandise that are by law required to be sold at a fixed location.

Schedule 147. Each person doing business as a transient dealer as defined in this Schedule and who does not pay the privilege license under Schedule 33, or the license permit under Schedule 159.16 shall pay an annual license tax to the State of \$30.00. The payment of one State license shall authorize such transient dealer to engage in such business in any county in the State upon the payment of a county license of five (\$5.00) dollars in each such county. Definition Of Transient Vendor Or Dealer: (a) When used in this section, the words "transient dealer" shall be held to include any person or persons who shall be embraced in any of the following classifications: (b) All persons acting for themselves or as an agent, employee, salesman, or in any capacity for another, whether as owner, bailee or other custodian of goods, wares, and merchandise, and going from person to person, dealer to dealer, house to house, or place to place, and selling, or offering to sell, exchanging or offering to exchange, for resale by a retailer, any goods, wares and merchandise, or, (c) All persons who do not keep a regular place of business open at all times in regular business hours, and at the same place, who shall sell or offer for sale, goods, wares and merchandise, or, (d) All persons who keep a regular place of business open during regular business hours, and at the same place, who shall else where than at such regular place of business sell or offer for sale or at the time of such sale deliver goods, wares or merchandise. or, (e) All persons who go from person to person, or house to house, or place to place, or dealer to dealer, and sell or offer for sale, or exchange the goods, wares and merchandise which they carry with them, and who deliver the same at the time of, or immediately after the sale, or without returning to the place of business operations (a permanent place of business) between the taking of the order and the delivery of the goods, wares and merchandise, or, (f) All persons who go from person to person, house to house, place to place, or dealer to dealer, soliciting orders by exhibiting samples, or taking orders, and thereafter making delivery of the goods, or filling the order, without carrying or sending the order to the permanent place of business, and thereafter making delivery of the goods pursuant to the terms of the order, or, (g) All persons who go from person to person, place to place, house to house, or dealer to dealer, carrying samples and selling goods from samples and afterwards making delivery without taking or sending an order therefor to a permanent place of business for the filling of the order and delivery of the goods,

or the exchange of the goods, or the exchange of merchandise having become damaged or unsalable, or the purchase by merchandise of advertising space, or, (h) All persons who have in their possession, or under their control any tangible property offered, or to be offered for sale, or to be delivered, unless the sale or delivery thereof is to be made in pursuance of a bona fide order for the goods to be sold or delivered, said order to be evidenced by an invoice or memorandum. Order Defined: (i) An order is defined as being an agreement in writing, between the seller to deliver and the buyer to accept the merchandise to be sold, bought and delivered at the prices and in the quantities agreed upon; and said order shall be evidenced by a memorandum or invoice accompanying the goods on the day on which the same are to be delivered, specifically designating and specifying the name and address of the seller and the buyer, the items purchased, sold, and to be delivered, and the price on each and the aggregate thereof. The agreement to buy, or accept for delivery, must be entered into before the goods are placed in transit, or delivered, and must be transmitted from the place at which taken to the regular and fixed place of business, before being filled and the goods delivered. (j) A commonly termed "blanket order" shall not satisfy the conditions of this definition when such "blanket order" is merely an agreement between the buyer and seller, whereby the buyer shall take such quantity of goods as the seller may deliver to his place of business, or to any other place, within a certain period of time. A "blanket order" to satisfy the conditions of this definition, must be an agreement in writing, and must recite that the buyer agrees to accept from the seller definite quantities of goods, at agreed prices, or at prevailing market prices at the time of the delivery of the same; and such agreement shall not be subject to change or cancellation before its termination, without damages to either of the parties entering into it, and it shall not be a condition of such agreement that goods, delivered in accordance therewith, must be paid for on delivery. (k) Provided this schedule shall not apply to (1) transient dealers of bakery products in the county where such bakery is located; (2) nor shall this schedule apply to transient dealers of bottled soft drinks in the county where such bottling plant is located when sold or distributed from a bottling plant which has paid the privilege tax imposed by this Act under Schedule 26; (3) nor shall it apply to transient dealers in the sale or delivery of gasoline, kerosene, lubricating oil or other petroleum products when drawn, conveyed and distributed from a stock maintained at a warehouse, oil depot, distributing station or established place of business in this State upon which has been paid all the privilege taxes required of such business. Provided that transient dealers of bakery products and soft drinks engaging in the business of transient dealer in any other

county, shall pay the State an annual State license of \$20.00 and in addition thereto five dollars to each county in which such transient dealer does business as such. This schedule shall not apply to a person, or to any member of his immediate household selling dairy, poultry or farm products raised, produced or grown by them nor to such products preserved, bottled or canned by them. Nor shall this schedule apply to those selling fish, shrimp, crabs or other sea-foods, candy and peanuts. (1) Where any person subject to the payment of the tax imposed by this Schedule makes use of more than one vehicle in carrying on such business, he shall, for each such vehicle in excess of one, upon payment of \$5.00 to the State Tax Commission, procure a permit for the operation of such vehicle and shall not be subject to any additional license tax for the privilege of operating such vehicle or vehicles, other than motor vehicle license. (m) Provided, that no part of this Schedule shall be construed so as to impose any tax or require any duty of traveling salesmen representing jobbers or wholesalers, and who do not carry with them goods for sale, but only take orders for goods and deliver said orders to their employer at a store, or permanent place of business, to be filled in the manner used by the jobbing and wholesale trade. (n) Provided, that the payment of the privilege license required by this Schedule shall not authorize any transient dealer to sell any goods, wares, or merchandise for which a higher license is required without the payment of the higher license. Provided further, that any person paying the license herein levied, shall not sell any goods, wares, or merchandise for use or consumption by going to person to person, dealer to dealer, house to house, or place to place, without the payment of peddler's license as required by Schedule 146, of this Act. Provided further, the taxes herein levied are not subject to any specific exemption.

Schedule 148. Each person operating a turpentine still or stills for the purpose of distilling or manufacturing spirits of turpentine or resin, shall pay an annual privilege tax as follows: On each such still having a capacity of sixteen barrels or less, twenty dollars (\$20.00); on each still having a capacity of over sixteen barrels, and not over twenty barrels, thirty-five dollars (\$35.00); on each still having a capacity of over twenty barrels and not over twenty-five barrels, forty-five dollars (\$45.00); on each still having a capacity of twenty-five barrels or over, sixty-five dollars (\$65.00). Each owner or operator of a turpentine still shall between the first day of October and the first day of November of each year file with the Probate Judge of each county in which he does business, a sworn statement, showing the numbers of stills operated by him or them in such county for any period of the preceding year and the capacity of each still operated and shall pay the license required by the foregoing schedule in each county, which

license shall be based on such previous year's capacity. Provided no county license shall be paid. Any person who makes or files a false statement as to the number of stills operated, or as to the capacity of such still or stills, shall be guilty of perjury and on conviction shall be punished as in other cases of conviction for perjury as provided by law.

Schedule 149. Each person operating or conducting vaudeville, and/or theatrical shows as transient, operating temporarily in different places in tents or otherwise, shall pay to the State a license of twenty-five dollars (\$25.00) per week for such show. A separate license shall be taken out for each week of operation. No County in collecting said license for said County shall charge a license, except for the number of days said shows operate in said County, and that license shall be in proportion that the days shown in said County bears to the weekly license. Provided that this section shall not apply to any show operating in a theatre regularly licensed.

Schedule 150. Each person practicing veterinary surgery shall pay an annual license of five dollars (\$5.00) to the State, but no license shall be paid to the county. Provided that no veterinary surgeon shall be required to pay a license until he has practiced his profession for two years.

Schedule 151. Each person operating a warehouse or yard for the storage of goods, wares or merchandise for hire shall pay an annual license to the State of Twenty-five Dollars (\$25.00); where such warehouseman also acts as a distributing agent and forwards and distributes the goods stored in such warehouse, and charges for such service, he shall pay an additional license of one hundred dollars (\$100.00).

Schedule 152. Each person operating a warehouse or yard for the storage of cotton for compensation shall pay a license tax to the State as follows: Every such warehouse storing not more than five thousand (5,000) bales in the preceding calendar year, twenty dollars (\$20.00); more than five thousand (5,000) and not more than ten thousand (10,000) bales, forty dollars (\$40.00); more than ten thousand (10,000) and not more than fifteen thousand (15,000) bales, sixty dollars (\$60.00); more than fifteen thousand (15,000) and not more than twenty thousand (20,000) bales, one hundred dollars (\$100.00); more than twenty thousand (20,000) and not more than thirty thousand (30,000) bales, one hundred fifty dollars (\$150.00); more than thirty thousand (30,000) bales, two hundred dollars (\$200.00).

Schedule 153: Each person dealing in witness script One Hundred Dollars (\$100.00).

Schedule 154. For each machine for vending gum, candy, cigarettes or other articles: Where machine is operated by pennies,

three dollars (\$3.00). Where machine is operated by nickles or coins of a larger denomination, four dollars (\$4.00). Provided no license shall be issued for a machine vending cigarettes, or other articles for the retail of which a license is otherwise herein provided, until the person operating the place of business in which said vending machine is located or the owner of said machine shall have first paid for and obtained a license as provided under Schedule 32. Any person operating or permitting the operation of a vending machine dispensing packages or in quantities less than a package, cigarettes or any article on which there is an excise tax without first having paid the tax thereon by affixing the required stamp to the original package as required under Schedule 159 shall be guilty of a misdemeanor and punished as provided in said schedule for failure to pay said tax.

### ARTICLE XIII. CHAPTER 3.

Schedule 155. From and after the first day of January, 1936, it shall be unlawful for any person, firm, corporation, association or copartnership, either foreign or domestic, to operate, maintain, open or establish any store in this State without first having obtained a license so to do from the State Tax Commission, as hereinafter provided.

Schedule 155.1. Any person, firm, corporation, association or copartnership desiring to operate, maintain, open or establish one or more stores in this State shall apply to the State Tax Commission for a license to do so. The application for a license shall be made on a form which shall be prescribed and furnished by the State Tax Commission, and shall set forth the name of the owner, manager, lessee, receiver or other person desiring such license; the name of the store, the location, including the street number of each store; and such other facts as the State Tax Commission may require. The applicant desiring to operate, maintain, open or establish such stores, shall make a separate application for a license to operate, maintain, open or establish each store, but the respective stores for which the applicant desires to secure licenses may all be listed on one application blank. Each such application shall be accompanied by a filing fee of fifty cents for each store and by the license fee as prescribed in sub-section 4 of this schedule.

Schedule 155.2. As soon as practicable after the receipt of any such application, the State Tax Commission shall carefully examine such application to ascertain whether it is in proper form and contains the necessary and requisite information. If, upon examination, the State Tax Commission shall find that any such application is not in proper form and does not contain the necessary and

requisite information, it shall return such application for correction. If an application is found to be satisfactory, and if the filing and license fees, as herein prescribed, shall have been paid, the State Tax Commission shall issue to the applicant a license for each store for which an application for a license shall have been made. Each licensee shall display the license so issued in a conspicuous place in the store for which such license is issued.

Schedule 155.3. All licenses shall be so issued as to expire on the thirty-first day of December of each calendar year. On or before the first day of January of each year, every person, firm, corporation, association or copartnership having a license, shall apply to the State Tax Commission for a renewal license for the calendar year next ensuing. All applications for renewal licenses shall be made on forms which shall be prescribed and furnished by the State Tax Commission. No license shall lapse prior to the thirty-first day of January of the year next following the year for which such license was issued, and if, by such thirty-first day of January, an application for a renewal license has not been made, the State Tax Commission shall notify such delinquent license holder thereof, by registered mail, and if application is not made for and a renewal license issued on or before the last day of February, next ensuing, the former license shall lapse and become null and void. Each application for a renewal license shall be accompanied by a filing fee of fifty cents for each store, and by the license fee as prescribed in sub-section 4 of this Schedule.

Schedule 155.4. Every person, firm, corporation, association or co-partnership opening, establishing, operating or maintaining one or more stores or mercantile establishments, within this State, under the same general management, supervision or ownership, shall pay the license fees hereinafter prescribed for the privilege of opening, establishing, operating or maintaining such stores or mercantile establishments. The license fee herein prescribed shall be paid annually, and shall be in addition to the filing fee prescribed in sub-section one (1) and three (3) of this Schedule and shall be in addition to all other license or privilege tax now or hereinafter levied. The license fees as herein prescribed shall be as follows: (a) Upon one store, the annual license fee shall be one dollar (\$1.00) for each store. (b) Upon two stores or more but not to exceed five stores, the annual license fee shall be Fifteen Dollars (\$15.00) for each such additional store. (c) Upon each store in excess of five but not to exceed ten, the annual license fee shall be Twenty-Two Dollars and Fifty Cents (\$22.50) for each additional store. (d) Upon each store in excess of ten but not to exceed twenty the annual license fee shall be Thirty-seven Dollars and Fifty Cents (\$37.50) for each such additional store. (e) Upon each store in

excess of twenty the annual license fee shall be One Hundred Twelve Dollars and Fifty Cents (\$112.50) for each such additional store.

Schedule 155.5. Each and every license issued prior to the first day of July of any year shall be charged for at full rate, and every license issued on or after the first day of July of any year shall be charged for a one-half of the full rate in sub-section four (4) of this Schedule.

Schedule 155.6. The provisions of this Schedule shall be construed to apply to every person, firm corporation, co-partnership or association, either domestic or foreign, which is controlled or held with others by stock ownership of twenty-five per cent (25%) or ultimately controlled or directed by one management or association of ultimate management, or the buying for said store or stores is centralized or done by one person or management.

Schedule 155.7. The term "store" as used in this Schedule shall be construed to mean and include any store or stores or any mercantile establishment or establishments which are owned, operated, maintained, controlled or for which the buying is done by the same person, firm, corporation, copartnership or association, either domestic or foreign, in which goods, wares or merchandise of any kind are sold, either at retail or wholesale. The term "store" as used in this schedule shall not be construed to mean or include any place of business at which the principal business conducted is that of selling or distributing petroleum products; "and ice where the amount kept in any store is less than 4000 pounds at any one time". Provided, however, that if this exception should be held unconstitutional, such holding shall not affect the remaining portions of this Schedule, the Legislature hereby declaring that it would enact the provisions of this schedule irrespective of the foregoing exceptions, and if such exceptions be invalid, such places shall be subject to the provisions of this schedule. Two or more stores or mercantile establishments shall, for the purpose of this schedule, be treated as being under a single or common ownership, supervision or management if directly or indirectly owned or controlled by a single person or any group of persons having a common interest in such stores or mercantile establishments, or if any part of the gross revenues, net revenues, or profits from any such stores or mercantile establishments shall directly or indirectly be required to be immediately or ultimately made available for the beneficial uses, or shall directly or indirectly inure to the immediate or ultimate benefit, of any single person or any group of persons having a common interest therein.

Schedule 155.8 Any person, firm, corporation, co-partnership or association who shall violate any of the provisions of this schedule shall be deemed guilty of a misdemeanor and upon conviction



thereof shall be fined in any sum not less than twenty-five dollars, nor more than one hundred dollars. And each and every day that such violation shall continue shall constitute a separate and distinct offense.

Schedule 155.9. Any and all expenses incurred by the State Tax Commission in the administration of this schedule shall be paid out of the funds accruing under the provisions of this Schedule. All money collected under the provisions of this Schedule, less expenses incurred in the administration of this schedule, shall be paid into the State Treasury, monthly, by the State Tax Commission, and shall be added to and constitute a part of the Educational Trust Fund.

Schedule 155.10. The State Tax Commission is hereby authorized to employ such clerical assistants as may be necessary to enforce and administer the provisions of this Chapter and to prepare and print such blanks, forms, reports, receipts and any and all other things which may be necessary to provide for the administration of this schedule, and to pay any and all expenses so incurred out of the fund collected under the provisions of this schedule.

## ARTICLE XIII.

### Chapter 4.

Schedule 156. As used in this Chapter, the term "Gasoline" shall include gasoline, naptha and other liquid motor fuels or any device or substitute therefor, commonly used in internal combustion engines; provided, however, that nothing in this Chapter shall be held to apply to those products known commercially as "kerosene oil", "fuel oil", or "crude oil" commonly used for lighting, heating or industrial purposes. The word "person" means and includes persons, corporations, co-partnerships, companies, counties, municipal corporations, school boards, or agencies of the State, or other agencies, associations, incorporated or otherwise, singular or plural. The term "distributor" shall include any person who engages in the selling of gasoline in this State by wholesale domestic trade, but shall not apply to any transaction of such distributor in interstate commerce. The word "refiner" shall include any person who manufactures, distills, blends, compounds or mixes any one or more products in the production of a liquid motor fuel as herein defined. The term "retail dealer" shall include any person herein defined as distributor who is also engaged in the selling of gasoline in this State at any place in this State in broken quantities. The term "storer" as herein used shall include any person who ships or causes to be shipped or receives, gasoline into this State in any

quantities, and stores the same in any manner and withdraws or uses the same for any purpose.

Schedule 156.1. Every distributor, refiner, retail dealer or storer of gasoline as herein defined shall pay an excise tax of six cents (\$0.06) per gallon upon the selling, distributing, storing or withdrawing from storage in this State for any use, gasoline as herein defined, provided, however, that this excise tax shall not be levied on the sale of gasoline in interstate commerce, and provided further, that where the excise tax of six cents (\$0.06) per gallon upon the sale, distribution, storage or withdrawal from storage of such gasoline shall have been paid by a distributor, refiner, or by retail dealer or storer, such payment shall be sufficient, the intention being that the tax shall be paid but once.

Schedule 156.2. The excise tax imposed by Section 156.1 hereof shall apply to persons as defined in this Chapter, storing gasoline and distributing the same or allowing the same to be withdrawn from storage whether such withdrawals be for sale or other use; provided that "sellers" of gasoline and its substitute paying the tax herein provided may pay the same computed and paid on the basis of their sales as hereinafter required and refiners, storers and distributors shall compute and pay this tax on the basis of their withdrawals or distributions.

Schedule 156.3. On or before the twentieth day of each month after this Chapter shall have taken effect, every person upon whom this excise tax is levied, shall render to the State Tax Commission on forms prescribed by such Commission, a true and correct statement of all sales and withdrawals of gasoline made by him or them during the next preceding calendar month, and shall furnish the said Commission such other information as such Commission may demand and/or require, upon blanks to be formulated and furnished by said Commission, and at the time of making such monthly report shall pay to the State Tax Commission an amount of money equal to the excise tax herein levied.

Schedule 156.4. The monthly statement herein required to be made by the distributor, refiner, storer or retail dealer shall be sworn to before some officer authorized to administer oaths and any false or fraudulent statement sworn to shall constitute perjury and upon conviction thereof, the person so convicted shall be punished as provided by Section 5161 of the Code of 1923.

Schedule 156.5. All distributors, refiners, storers or retail dealers shall keep, for not less than two years, within the State of Alabama at some certain place or office, such books, documents or other papers as will clearly show the amount of sales, distributions or withdrawals of gasoline made in this State covered by this Chapter.

Schedule 156.6. Within thirty days after the passage of this Chapter, every distributor, refiner, storer or retail dealer engaged in the sale or withdrawal of gasoline shall make a report on blanks furnished by the State Tax Commission to the State Tax Commission showing the place and post office address at which he is engaged in the business of distributor, refiner, or storer or retail dealer in gasoline, which information shall be entered by the State Tax Commission on a book kept for that purpose, and should such distributor, refiner, storer or retail dealer move his place of business and/or his post office address, to another such distributor, refiner, storer or retail dealer shall, without delay and/or within twenty days thereafter, notify the State Tax Commission of such removal, giving the former place and post office address and also the place and post office address to which the business has been removed. After this Chapter becomes effective no person shall become a distributor, refiner, storer or seller of gasoline in this State until he shall have made such reports to the State Tax Commission.

Schedule 156.7. If any distributor, refiner, storer or retail dealer in gasoline in this State, covered by the provisions of this Chapter, shall fail to make the reports or any of them, to the State Tax Commission as herein required, or shall fail to keep the records as herein required, such distributor, refiner, storer or retail dealer shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than Fifty Dollars (\$50.00) nor more than Three Hundred Dollars (\$300.00), for such offense. Each month of such failure shall constitute a separate offense.

Schedule 156.8. It shall be the duty of the State Tax Commission to enforce the provision of this Chapter and the State Tax Commission shall have the right itself or by any of its members or its agents to examine the books, records and accounts of every such distributor, refiner, storer or retail dealer in gasoline covered by the provisions of this Chapter, and any distributor, refiner, storer, or retail dealer who refuses to permit the examination of such records, accounts or books shall be guilty of a misdemeanor and upon conviction fined not less than Fifty Dollars (\$50.00), nor more than Three Hundred Dollars (\$300.00). The State Tax Commission shall have the right itself, by any of its members, or its agents to examine the records, accounts, books and invoices of any retail dealer or storer who makes purchases of gasoline from an Alabama distributor, refiner, storer or other retail dealer or from any other source on a basis of "tax paid" when, in the opinion of the Commission such examination is necessary to determine if such gasoline sold in this State has been reported to the gasoline tax department of the State Tax Commission and the tax thereon paid. Any dealer or person making purchases on the basis of "tax paid" from any

licensed dealer or otherwise, who fails to keep the records as herein required, or refuses to permit the duly authorized agents of the State Tax Commission to examine such records shall be guilty of a misdemeanor and upon conviction therefor, shall be fined not less than Fifty Dollars (\$50.00) nor more than Three Hundred Dollars (\$300.00) for each such offense.

Schedule 156.9. One-third of the proceeds of the excise tax herein imposed, less cost of collection and administering this Chapter, shall be paid into the State Treasury to the credit of the sixty-seven counties of the State, and shall be divided and distributed equally among the sixty-seven counties of this State, payment to be made by State warrant to be mailed to the Treasurer of such counties or depositories of such counties, on or before the 10th day of each month following collection. Such funds when received by the County Treasurer shall be covered into the County road and bridge fund, and shall be expended exclusively in the construction, maintenance and repair of the public roads and bridges in such County. The use or expenditure of any said funds in any other manner or for any other purpose than as provided herein, but the governing body of any County of any individual member of said body, shall constitute a misdemeanor punishable by fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), and by imprisonment in the County jail or at hard labor for the County for not less than one or more than twelve months. The State highway Commission shall have the right to inspect the work upon which such funds are expended, and if in the judgment of the State Highway Commission, it appears that such funds are not being expended profitably or correctly, the State Highway Commission shall report the matter to the State Comptroller, or other officer required to examine the records of County Officials. The State Comptroller, or other officer required to examine the records of county officials, is hereby especially charged with the duty of examining into and determining each year whether or not such funds have been used or expended as herein provided. Whenever such officer discovers a violation of any provision of this sub-section, he shall forthwith report same to the Attorney General whose duty it shall be to direct the prosecution of said offense. Provided, however, that in the use and expenditure of that portion of the funds accruing hereunder to Conecuh County, the Board of Revenue of Conecuh County shall have authority to apply 40% of such funds to the purposes provided in Act approved June 16, 1931 (Local Acts 1931, Page 128), this being a new levy of the same tax referred to in said local act and it not being the intention to repeal said local act, any provision herein contained to the contrary notwithstanding.

Schedule 156.10. One-third of the proceeds of the excise tax herein imposed, when collected, shall be covered into the State Treasury to the credit of the public road and bridge fund. Such funds shall be primarily charged with the payment of interest and retirement of public road and bridge bonds issued in accordance with the provisions of an amendment to the State Constitution approved by the voters of Alabama at an election held on April 12th, 1927, authorizing the issuance of highway and bridge bonds in the aggregate amounting to Twenty-Five Million Dollars (\$25,000,000.00). After paying interest on these bonds, a sufficient sum shall be set aside as a sinking fund, to retire these bonds as they become due. Any residue of such fund, after provision shall have been made for the primary obligations herein set out, may be used by the Highway Commission, with the approval of the Governor, in constructing public roads and bridges within the State as now or may hereafter be provided by law, and in maintaining the public roads and bridges which have been or may hereafter be constructed by the State Highway Commission; in equipping and preparing convicts for use upon the public roads and bridges of this State; for maintenance of such convicts while so at work upon such roads and bridges; for compensating the State for the use of such convicts, and after the payment of the primary obligations the interest on the bonds issued under authority of Act No. 292 approved August 31, 1927, Acts 1927, page 278, may be paid out of the residue of the receipts of the gasoline tax collected by the State under this sub-section, after there has been taken from this fund the amount necessary to meet all of the primary purposes to which said gasoline tax fund is pledged under Article XX A, as an amendment to the Constitution of the State, and for such other use upon the public roads and bridges of this State as may be authorized by the Highway Commission with the approval of the Governor. Provided, however, that the residue of such fund shall not be expended contrary to law as it now exists or may hereafter be enacted.

Schedule 156.11.—One third of the excise tax herein imposed, when collected, shall be divided, monthly as collected, less the cost of collection, as follows: One half of said 1-3 shall be paid into the State Treasury to the credit of the State Highway Department for the public road and bridge fund, as provided by Sections 18 and 19 of an Act No. 19 of Legislature of Alabama, approved January 31, 1935, which said sections are made a part of this section and read as follows: Section 18. That the proceeds from one cent of said tax herein levied may be used by the Governor of the State of Alabama at any time within twelve months from the approval of this Act for the purpose of matching any United States Government funds on any fair and reasonable basis. Section 19.

That the levy of the one cent tax as provided and levied under the provisions of an act entitled 'An Act to impose, for the use and purpose of supervising, preserving maintaining, constructing and regulating the use of public roads, and bridges in the State of Alabama, and to maintain and supervise State Convicts while working upon such roads and bridges, an excise tax on all persons, companies, agencies, corporations and associations who sell, distribute, store or draw from storage for any purpose whatsoever, gasoline or any other liquid motor fuels or devices or any substitutes therefor within the State of Alabama; providing for the collection of such excise tax and the payment of same into the State Treasury to the credit of the State Highway Department for the public road and bridge funds, providing for the enforcement of this act and fixing a penalty for the violation of the provisions hereof; providing that the said excise tax so imposed shall be in addition to all other excise tax now imposed by law; and providing that freight agents of railroads and all agents of all transportation companies operating within the State of Alabama and who transport motor fuels, shall report to the State Tax Commission all shipments of gasoline or any substitute therefor, received at any of their stations within the State. Approved July 27, 1931,' be and the same is hereby suspended as of and on February 1, 1935, and all other provisions of said act shall remain and be in full force and effect until the full payment of the amount due thereunder is paid in full and thereafter said act is hereby repealed. That the levy of the one cent tax as provided and levied under the provisions of an act entitled 'An Act to impose an excise tax in addition to any and all other excise taxes now imposed by law on persons, corporations, co-partnerships, companies, agencies or associations engaged in selling, distributing, refining, storing, or withdrawing from storage for any purpose whatsoever gasoline or other liquid motor fuels or devices or substitutes therefor in this State, and providing for the collection and payment of such tax; and for the examination of the books and records of any person, corporations, co-partnerships, companies, agencies or associations engaged in selling, distributing, refining, storing or withdrawing from storage for any purpose whatsoever or other liquid motor fuels or devices or substitutes therefor in this State; providing a penalty for any false statements made in making reports to the State Tax Commission; providing for the distribution of the funds derived therefrom, and for the use to which such funds may be put, and providing for the enforcement of this act and fixing a penalty for violation of any of the provisions hereof. Approved November 5, 1932, be and the same is hereby suspended as of and on February 1, 1935, and all provisions of said act shall remain and be in full force and effect until the full payment of the amount due thereunder is paid in full and thereafter said Act

is hereby repealed; "and the other one half of said 1-3 shall be divided equally among the 67 counties of the State of Alabama, monthly as collected, less the cost of collection, payment to be made to the County Treasurer or Depository of said counties on or before the 10th day of each month of the year, and said funds shall be used by the several counties of the State exclusively for the construction, maintenance, supervision and policing of the public roads and bridges in the respective counties; provided, however, that the Board of Revenue or other such governing body of a county may direct the State Tax Commission to pay over to the State Highway Department such part of said funds as may be agreed upon by the Board of Revenue or such other governing body of any county, and the Governor of the State of Alabama, which said funds are to be used in the construction and maintenance of roads in said county, to be agreed upon by the Board of Revenue of such county, or such other governing body, and the Governor of the State of Alabama.

Schedule 156.12. The acceptance of any money paid for the excise tax provided for in this Chapter shall in no way preclude the collection of the money actually due, provided, however, that the money actually paid shall constitute a credit against the money actually due.

Schedule 156.13. The forms for all statements and reports required under the provisions of this Chapter shall be prescribed and furnished by the State Tax Commission and the cost of the enforcement of this Chapter shall be paid out of the funds derived from the excise tax herein prescribed, upon a warrant of the State Comptroller upon a voucher of the State Tax Commission, and approved by the Governor.

Schedule 156.14. If any distributor, refiner, storer or retail dealer in gasoline covered by this Chapter shall fail to make the monthly returns prescribed herein and pay the excise tax hereby laid, on or before the 20th day of the month following sale, distribution or withdrawal, the State Tax Commission shall make return for such delinquent upon such information as it may reasonably obtain, assess the excise tax thereon, and add a penalty for failure to make such return and pay the tax herein laid of twenty-five per cent (25%) of the tax due, to the amount as assessed by the Commission. If, in the opinion of the State Tax Commission a good and sufficient cause or reason is shown for such delinquency, the State Tax Commission may remit the penalty, otherwise the penalty shall be paid.

Schedule 156.15. Within five (5) days after the State Tax Commission shall adjudge a distributor, refiner, storer or retail dealer in gasoline delinquent, such delinquent, shall be notified by the State Tax Commission, by registered mail, to appear before

the State Tax Commission and show cause, if any, why execution should not issue against the bond and property of such delinquent to satisfy the amount of the tax and penalties due the State. If no showing is made within ten (10) days after notice is mailed, or if such showing is not satisfactory to the State Tax Commission, execution may be issued by the State Tax Commission for the collection of such tax and penalties directed to any Sheriff of the State of Alabama, who shall proceed under such execution in the manner now provided by law under the executions issued from courts of record, and shall make return of such executions to the State Tax Commission within thirty days of the issuance thereof. The Tax and all penalties herein provided for shall be held as a debt payable to the State of Alabama by the person against whom the same shall be charged and all such tax and penalties shall be a lien against all the property in this State of the person charged therewith, superior to all other liens except tax liens to the State antecedent in date.

Schedule 156.16. In the enforcement of collection of taxes and penalties imposed by the terms of this Chapter, the Sheriff to whom an execution is issued by the State Tax Commission shall first levy upon all the property of the person against whom the tax is levied, and then make formal demand upon the bonding company for payment to the amount of the bond. If such sum as may be collected from the bonding company is insufficient, then in that event the Sheriff shall proceed to sell the property so levied upon, and apply the proceeds first to the payment of the balance due on the excise taxes and cost involved in making such levy and sale, the residue to be paid over to the person against whom the execution is issued.

Schedule 156.17. The State Tax Commission is hereby authorized to prepare a claim against any distributor, refiner, storer, or retail dealer adjudged delinquent in payment of gasoline excise taxes and have such claim recorded in the office of the Judge of Probate of the County in which such person is doing business, or in the County where such person maintains his or their main place of business. Said claim shall be in the form of a decree by the State Tax Commission and shall set forth the amount of tax due by the person adjudged delinquent, and the penalty imposed thereon. When such claim shall have been paid the State Tax Commission shall write or cause to be written on such record the word "satisfied."

Schedule 156.18. Any distributor, refiner, storer, or retail dealer who shall violate any of the provisions of this Chapter may be restrained and the proper prosecution instituted in the name of the State of Alabama by its Attorney General or under his direction by any Circuit Solicitor of the State, or any attorney employed by the State Tax Commission with the approval of the Governor



and the Attorney General, from distributing, refining, selling or withdrawing from storage any gasoline, the sale or withdrawal of which is taxable under this Chapter, until such person shall have complied with the provisions of this Chapter.

Schedule 156.19. Should any section, clause, paragraph, line, sentence or part of this Chapter be declared unconstitutional, it shall not invalidate the remaining sections or parts thereof, the Legislature hereby declaring that it would have passed the remainder of said Chapter irrespective of such invalid section, clause, paragraph, line, sentence or part.

Schedule 156.20. All laws and parts of laws in conflict with the provisions of this Chapter are hereby repealed, provided that nothing in this Chapter shall be held or construed to repeal any part of Act 55, approved October 5th, 1932, Acts, Special Session, 1932, page 57. Provided further that nothing herein contained shall be held or construed to repeal any law heretofore enacted providing for the collection of excise tax on the sale, distribution or withdrawal of gasoline from storage in this State until all such taxes accrued prior to the effective date of this Chapter shall have been collected.

## ARTICLE XIII,

### Chapter 5.

Schedule 157. On or before the 15th day of each month after this chapter becomes effective, each freight agent of the railroad companies, steamship companies, steamboat companies, tugboat companies, motor vehicle transportation companies or operators of motor vehicles, except licensed bonded gasoline dealers, and barge lines now operating in this State or which may hereafter operate in this State, shall report to the State Tax Commission all shipments of gasoline and lubricating oils, or other taxable petroleum products, or substitutes therefor, received and delivered at said railroad stations, docks, river landings, or other points of delivery to consignees during the preceding month, giving the name and address to consignor and consignee, shipping and receiving such gasoline or lubricating oils or other taxable petroleum products, or substitutes therefor, and the number of gallons or pounds contained in each and every shipment. The terms of this Section shall also apply to operators of pipe lines and other methods of transporting petroleum products. The State Tax Commission shall have the right of itself or by its agents, to examine the records of the companies affected by this Section.

Schedule 157.1. Warehouse and transfer companies, receiving, storing, forwarding or delivering gasoline or lubricating oils in this State shall keep a correct record of all such receipts and deliv-

ery of gasoline and lubricating oils or substitutes therefor, and shall on or before the 15th day of each month, make a report to the State Tax Commission showing the name and address of the consignor and consignee shipping and receiving such petroleum products and the number of gallons or pounds contained in each and every shipment. The State Tax Commission shall have the right of itself or by its agents, to examine the records of all such warehouses or transfer companies in the enforcement of this Chapter.

Schedule 157.2. Information furnished in accordance with the provisions of this Chapter shall not be considered, nor treated as public documents, but shall be used exclusively by the State Tax Commission in the enforcement of the valid laws of this State.

Schedule 157.3. Refusal to comply with the provisions of this Chapter shall constitute a misdemeanor punishable by a fine of not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00) for each such offense.

Schedule 157.4. This chapter shall become effective on the first day of the month following approval by the Governor.

## ARTICLE XIII,

### Chapter 6.

Schedule 158. The following words and phrases used in this Act shall have the meanings herein ascribed to them: (a) "Motor Vehicle": Every vehicle, as herein described which is self-propelled, or which is drawn by a self-propelled vehicle. (b) "Automobile": Every motor vehicle, as herein defined, except motorcycles. (c) "Motorcycles": Every motor vehicle designed to travel on not more than two wheels in contact with the ground and not exceeding ten horse power and not exceeding the weight of five hundred pounds unloaded. (d) "Established Place Of Business": The place actually occupied either continuously or at regular periods, by a manufacturer or dealer in motor vehicles, or automobile accessories where the books and records of such manufacturer or dealer are kept and at which a large share of business of such manufacturer or dealer is transacted. (e) "Persons": Every individual, partnership, association, trust or corporations, and the receivers, assignees or agents of any of them. (f) "Operator": Every person who drives, operates or is in actual physical control of a motor vehicle upon the public highway. (g) "Chauffeur": An operator who directly or indirectly receives compensation for operating a motor vehicle on the public highways. This definition shall not be deemed to include manufacturer's agents, proprietors of garages, and dealers, salesmen, mechanics, school bus drivers or demonstrators of motor vehicles when driving vehicles in any such capacity. (h)

"Jitney Bus": A motor vehicle not operated on tracks engaged in the business of carrying passengers for hire over, along and upon a definite and/or substantially fixed route or routes, in the incorporated limits of any municipality or within ten miles thereof. Except where such vehicle is operated in conjunction with, or in lieu of a Street Railway System or duly franchised Bus Operation authorized by a City Commission, Board of Aldermen and the Alabama Public Service Commission. All such motor vehicles operating within any Municipality excepted by the above clause shall pay the license tax as specified in Schedule 158.3, Subsection A, and in addition thereto the Municipality in which they operate may charge for the use of its streets two per cent of the gross revenue received from the operation within that Municipality. (i) "Public Highway": Every highway, road, street, alley, lane, court, place, trail, drive, bridge, viaduct or trestle laid out or erected as such by the public or dedicated or abandoned to the public or intended or use by or for the general public, except such portions thereof as are used or prepared for use by pedestrians as sidewalks. The term "Public Highway" shall apply to and include driveways upon the ground of universities, colleges, schools and institutions. The term "public highway" shall not be deemed to include private driveways, roads, or places used by the owner, his guests and those having business with the owner and not intended to be otherwise used by the general public. (j) "Motor Truck": Any motor-propelled vehicle designed for carrying freight or merchandise or drawing a semi-trailer truck on not more than two axles and not operated or driven on fixed rails or tracks; but it shall not include self-propelled vehicles equipped primarily for passenger transportation. (k) "Small Trailer": Any vehicle designed to be drawn by any motor vehicle but supported wholly upon its own wheels and intended primarily for the carriage of personal effects or primarily for use as living quarters and with a load capacity of less than one thousand pounds. (l) "Semi-Trailer": Any vehicle designed to be attached to, and having its front end supported by, a motor truck or truck tractor, and intended for the carrying of freight or merchandise and with a load capacity of over 1,000 pounds. (n) "Pole or Pipe Dolly": Every vehicle of the trailer type having one or more axles not more than forty-eight inches apart and two or more wheels used in connection with a motor vehicle solely for the purpose of transporting poles or pipes and connected with the towing vehicle both by chain, rope or cable and by the load without any part of the weight of said dolly resting upon the towing vehicle.

Schedule 158.1: "Private cars": The following license and registration fee shall be charged on automobiles and motor cars kept for private use: (a) For each automobile or motor car weighing 2000 pounds or less, Five Dollars (\$5.00). (b) For such

automobile or motor car weighing more than 2000 pounds and not exceeding 2500 pounds the license shall be Nine Dollars (\$9.00). (c) For each automobile or motor car weighing in excess of 2500 pounds and not more than 3250 pounds, the license shall be \$13.00. (d) For each automobile or motor car weighting in excess of 3250 pounds, the license shall be Eighteen Dollars (\$18.00). All motor vehicle licenses under this Act shall become due on October 1st of each year and shall become delinquent on October 25th. Provided, however, that for new automobiles only these licenses shall be purchased on a monthly declining basis of one-twelfth ( $1/12$ ) or for each month of the tax year and that the purchaser shall only buy a license for the then remaining months of the tax year. In figuring the license on a one-twelfth ( $1/12$ ) reduction for each month, the amount of any fraction shall be figured to the nearest ten (10c) cents above the fraction thereof. But in no event shall the price of license tag be less than two dollars (\$2.00). (a a) Provided, the word "Weight" for purpose of computing the license tax payable hereunder, shall be deemed to mean the weight of the vehicle including weight of the bumpers, spare tires, horn, trunk and tools, and all equipment customarily or generally used, whether same be installed on the motor vehicle before shipment or delivery by the factory, or before or after delivery by the automobile dealer. (e) For each electric automobile, other than truck, Twelve Dollars (\$12.00). (f) For each automobile propelled by steam, Eighteen Dollars (\$18.00). (g) For each motor cycle, Four Dollars (\$4.00). (h) For each motor cycle with side car attached, Five Dollars (\$5.00). Where the motorcycle is acquired or brought into the State on or after January 1st, or is not used prior to January 1st, the license shall be Three Dollars (\$3.00). Where the motorcycle is acquired or brought into the State on or after April 1st, or is not used prior to April 1st, the license shall be Two Dollars and a half (\$2.50). Where the motorcycle is acquired or brought into the State on or after July 1st, or is not used prior to July 1st, the license shall be Two Dollars (\$2.00). (b b) Provided, However, that the license tags for such automobile or motorcycle shall remain with such automobile or motorcycle for the remainder of the current tax year, and that before any private automobile or any motorcycle shall be used on any public highway the proper license tag therefor must be procured and securely attached to the rear end of the automobile or motorcycle, said tag to be securely attached right side up with the number thereof in an upright position and the numbers thereof plainly visible.

Schedule 158.2. The following license tax or registration fee shall be charged for operating a Jitney Bus in the public highways of this State: (a) Each jitney bus operating in or adjacent to a city of 100,000 inhabitants or over, \$300.00 per annum when the seating capacity does not exceed five and \$20.00 per annum for

each additional seating capacity in excess of five (b) Each jitney bus operating in or adjacent to a city of 50,000 inhabitants or over but less than 100,000, \$200.00 per annum when the seating capacity does not exceed five and \$15.00 for each seating capacity in excess of five. (c) Each jitney bus operating in or adjacent to a city of 25,000 and over but less than 50,000 inhabitants \$150.00 per annum, when the seating capacity does not exceed five and \$10.00 for each additional seating capacity in excess of five. (d) Each jitney bus operating in or adjacent to cities of 5,000 inhabitants or over but less than 25,000 inhabitants \$100.00 per annum when the seating capacity does not exceed five and \$10.00 for each additional seating capacity in excess of five. Under all other circumstances than as herein provided, the license for a jitney bus shall be the same as is provided in this Chapter for automobiles for transportation of passengers paying fares. Provided that should any jitney bus at any time carry a greater number of passengers than its rated seating capacity, the owner shall be required to immediately pay the license herein provided for the higher seating capacity.

Schedule 158.3. (a) Each automobile, motor car or motor bus used for transporting passengers paying fare or charges, shall shall pay the following named amounts for license tax: With seating capacity of five persons, or less \$37.50, with seating capacity of more than five and not exceeding ten, \$50.00. With seating capacity of more than ten and not exceeding fifteen, \$75.00. With seating capacity of more than fifteen and not exceeding twenty, \$100.00. With seating capacity of more than twenty and not exceeding forty, \$150.00. With seating capacity exceeding forty, \$200.00. (b) Each person desiring to take out a license to operate a motor vehicle for the transportation of passengers for hire, except taxicabs and touring cars hired by the hour or for special trips on terms agreed upon between the passenger and the carrier at the time of entering upon such service, shall at the time he applies for such license make out in writing a statement describing the route over which such motor vehicle, shall be operated and naming the terminal points thereof, and such route shall be plainly indicated on the motor vehicle in letters of sufficient size to be read at a distance of fifty feet. (c) For each motor vehicle operated as a part of a Taxicab, or similar system, the following license tax shall be charged: (a) For each automobile not exceeding 2500 pounds in weight, Eleven and 25/100 Dollars (\$11.25); (b) For each automobile weighing over 2500 pounds, but not exceeding 3000 pounds in weight, Sixteen and 75/100 Dollars (\$16.75); (c) For each automobile weighing in excess of 3000 pounds, but not exceeding 3500 pounds in weight, Nineteen and 25/100 Dollars (\$19.25); (d) For each automobile weighing over 3500 pounds, but not exceeding 4000 pounds in weight, Twenty-six and 25/100 Dollars (\$26.25); (e) For each automobile weigh-

ing in excess of 4000 pounds Thirty Dollars (\$30.00). Provided, that no city, town or municipality shall levy or collect a license tax on any vehicle hereinabove set out of more than one-half ( $\frac{1}{2}$ ) of the amount levied or collected as set out.

Schedule 158.4. For each automobile hearse or ambulance operated on the highways of this State, the following license tax shall be charged; In cities of one hundred thousand inhabitants or more, \$50.00. In cities of less than one hundred thousand and more than forty thousand inhabitants, \$30.00. In cities and towns of forty thousand inhabitants and not less than ten thousand, \$20.00. All other places whether incorporated or not, \$10.00. Automobile hearses and ambulances shall carry symbol tags. Drivers of automobile hearses and ambulances shall be required to secure chauffeur's license.

Schedule 158.5. For each motor truck the following license based on the manufacturer's rated capacity stamped on the truck shall be charged: Truck using exclusively motor fuel on which the excise tax imposed by this State has been paid or motor fuel which will be included in the report required to be made to the State Tax Commission of motor fuel sold or stored and on which the State excise tax on motor fuel will be paid when same becomes due: (a). Trucks less than one ton, Fifteen Dollars (\$15.00) (b). Trucks of one ton and less than two tons, Twenty-Two Dollars and Fifty Cents (\$22.50); (c). Trucks of two tons and less than three tons, Fifty Dollars (\$50.00) (d). Trucks of three tons and less than four tons, One Hundred Dollars (\$100.00); (e). Trucks of four tons and less than five tons, Two Hundred Dollars (\$200.00); (f). Trucks of five tons and less than six tons, Four Hundred Dollars (\$400.00);

Schedule 158.6. For each motor truck using any motor fuel on which the excise tax imposed by the State has not been paid or which will not be reported to the State Tax Commission as motor fuel sold or stored in this State on which the excise tax imposed on motor fuel will not be paid, the following license tax, based on the manufacturer's rated capacity stamped on the truck, shall be charged: (a a). Trucks of one ton or less, Two Hundred and Sixty-Five Dollars (\$265.00); (b b). Trucks of one ton and less than two tons, Two Hundred and Seventy-Seven Dollars and Fifty Cents (\$277.50); (c c). Trucks of two tons and less than three tons, Three Hundred and Twenty-Five Dollars (\$325.00); (d d) Trucks of three tons and less than four tons, Four Hundred and Fifty Dollars (\$450.00); (e e). Trucks of four tons and less than five tons, Six Hundred Dollars (\$600.00); (ff). Trucks of five tons and less than six tons, Seven Hundred and Fifty Dollars (\$750.00); (g g). Trucks of six tons and less than seven tons, Eleven Hundred and Fifty Dollars (\$1,150.00); (h h). Trucks of seven tons and over, Fifteen Hundred Dollars

(\$1500.00). Provided that the foregoing schedule applies to motor trucks or semi-trailer trucks using pneumatic tires.

Schedule 158.7. Where solid tires are used the license tax on motor trucks or semi-trailer trucks shall be two and one half ( $2\frac{1}{2}$ ) times the license tax required of trucks or semi-trailer trucks equipped with pneumatic tires. Provided, that where such trucks or semi-trailer trucks equipped with solid tires are used only within the corporate limits of a municipality the same license shall be paid as for motor trucks or semi-trailer trucks having pneumatic tires.

Schedule 158.8. Every person making application for a license to use a motor truck or semi-trailer truck on the highways of this State shall be required to file an affidavit and file same with the Probate Judge of the county in which said application is made as to whether the gasoline or other motor fuel oil on which the excise tax imposed by this State is to be used in operating the motor truck or semi-trailer truck, for which the application for license is made; and the applicant shall also fill out application blank in the form prescribed by the State Tax Commission as to the use of motor fuel in said motor truck or semi-trailer truck. Provided that it shall be unlawful to operate over any public roads of this State any vehicle now prohibited by law to be so operated.

Schedule 158.9. Motor trucks, semi-trailer trucks or motor vehicles owned and used by the State, counties or any municipalities of this State shall not be liable for the payment of license tax levied by this Act but shall carry tags. The purchasing agent or other officer of the State, county or municipality shall apply to the State Tax Commission giving the make, type, model, motor number, and serial number of the vehicle or vehicles owned and used by the State, county or municipality, together with such other information as the State Tax Commission shall require, which information shall be furnished under oath by such officer. If, upon examination, the same appears regular to the State Tax Commission, it shall issue to such purchasing officer or other official, to be placed on such motor vehicles the necessary number of tags and such tags shall be used on no other vehicle than that for which issued. State tags shall have the letter "S" stamped thereon and county tags shall have the name of the county and the proper numbers and the municipal tags shall have the name of the municipality and proper number stamped thereon. For issuance of such tag and to cover the expense of preparing same, there shall be paid the sum of one dollar. Such motor vehicle shall be used exclusively in the governmental or corporate function of the State, county or municipality to which issued.

Schedule 158.10. For each motor tractor used on the highways of this State there shall be paid a license or privilege tax of one

hundred dollars. Provided, however, that this license shall not be collected for a tractor when run on a highway to be transferred from one point to another for use on a farm, or when used on the highway for transferring what is commonly known as a "portable saw mill" or a "well-boring outfit."

Schedule 158.11. Every small trailer and semi-trailer shall pay a license tax of fifty per cent (50%) of the cost of the license tax of the motor vehicle by which it is drawn. The purchaser shall specify the truck to which it is to be attached and shall pay one-half ( $\frac{1}{2}$ ) of the amount of that license. Each semi-trailer tag shall bear the same tag classification corresponding in capacity to the truck tag of the truck to which it is to be attached. Trailers of any kind or description for hauling passengers for hire are prohibited by law. Small trailers attached to passenger cars, which are used for transporting of less than 1500 pounds are exempt from payment of any license. Provided that Small Trailers supported by its own wheels and carrying not more than 2000 pounds may be used by farmers in transporting their produce to and from market, but for all other purposes they are prohibited, except as permission is given in other provisions of this Act. All trailers of any kind and description used by persons exclusively for the handling of farm products raised by said farmers are exempted from the paying of said license on said trailers.

Schedule 158.12 (a) To prevent motor vehicles within the meaning of this Act from escaping taxation and to provide for the more efficient assessment and collection of taxes due on same, no license shall be issued to operate a motor vehicle on the public highways of this State, nor shall any transfer be made by the probate judge as provided under this Act, until the ad valorem tax on such vehicle shall have been paid in the county for the preceding year, as evidenced by a receipt of the tax collector where the owner of said vehicle resides, if the vehicle is owned by an individual, and if the vehicle is owned by a firm, corporation or association, then as evidenced by the receipt of the tax collector in the county in which said motor vehicle is used or operated. Every person, firm or corporation, who desires to operate a motor vehicle on the public highways of Alabama shall first return such motor vehicle for ad valorem taxation to the tax assessor of the county in which he resides, for the preceding tax year, and the tax assessor of such county shall deliver to such person who makes the return as herein required, a certificate of assessment on a form prescribed by the State Tax Commission, and such certificate shall be the warrant of the tax collector to collect the tax as shown thereon. (b) The Judge of Probate upon issuing a license as herein provided shall require the applicant to surrender the receipt of the tax



collector and keep same on file in his office. The license tag shall be evidence of the payment of the license and ad valorem tax due as provided under this Act. Valuation for ad valorem assessment shall be sixty per cent of the fair and reasonable value of the same. (c) Motor vehicles brought into this State after the first day of October and before the Tax Assessor has completed his assessment shall be subject to taxation the same as if it had been held or owned in the State on the first day of October. The probate judge is authorized to issue a motor vehicle license upon a certificate of the Tax Assessor certifying that there is no ad valorem tax on said motor vehicle due for the preceding year. (d) The tax assessors and tax collectors of the several counties in this State, in addition to assessing and collecting the ad valorem taxes due the State and counties on motor vehicles, shall collect the ad valorem taxes on motor vehicles due all cities in this State. The tax collector shall report and pay over the money collected for said cities at the same time and in the same manner as State and county taxes are reported and paid over by him. Said assessors and collectors shall each receive a commission of two and one-half per cent ( $2\frac{1}{2}\%$ ) of the amount of city taxes collected; and the tax collectors shall deduct said commission from the amount collected before paying the City Treasury, and at the time pay over to the tax assessor commissions due him under this Act. The judge of probate shall not issue a licence to operate a motor vehicle on the highways of this State until all ad valorem taxes due the said State, counties and cities are paid for the preceding year as shown by a receipt of the tax collector.

Schedule 158.13 (a) One-half of the license herein provided for shall be paid plus One Dallar (\$1.00) where the motor vehicle is acquired or brought into the State on or after April 1st of any year, or is not used or operated between the period from October first through March thirty-first following. The payment of the registration fee or license tax on motor vehicles or trailers shall be evidenced by the delivery to the party paying the same of numbered license tags which shall be placed in a conspicuous place, in an upright position, right side up, on the rear of the automobile, when a semi-trailer truck is operated, one tag on the rear of the semi-trailer. (b) It shall be a misdemeanor, punishable by a fine of not less than ten dollars and not exceeding twenty-five dollars (\$25.00) for each offense, to display the tag in any other place or in any other manner than as herein provided. (c) The State Tax Commission shall provide tags for all motor vehicles, and shall also provide receipts in triplicate, one of which shall be retained by the probate judge, one shall be delivered to the person paying the license fee, and one legible copy shall be mailed by the probate judge to the

State Tax Commission on the day the license was issued. (d) Every part of each receipt shall bear the same number as the tags delivered to the licensee. These receipts shall be prepared in the form to be determined by the State Tax Commission and delivered to the several probate judges of the several counties of the State, under such rules and regulations as may be prescribed by the State Tax Commission; and the State Tax Commission shall have power to prescribe rules and regulations concerning the application for and delivery to the licensee of the tags and receipt required by this Act. Provided, however, that the automobile licensee shall be required to state in his application where he proposes to use his automobile, whether for private use or for commercial purposes. (e) The tags furnished for commercial vehicles, except those used or rented by a U-Drive-it or similar system, shall be of a different design from those used for Private or Pleasure cars. (g) In applying for license for buses, taxicabs, U-Drive-Its, or like motor vehicles, or jitney-buses, such application shall give the seating capacity and the weight of the vehicle.

Schedule 158.14. (a) When proper motor vehicle license tags shall have been bought for the current tax year for a motor vehicle and such motor vehicle shall have been sold or transferred to a new owner or to new owners, either once or successively, such motor vehicle license tags shall remain on such motor vehicle in the hands of the new owner or successive owners for the balance of the tax year, and no new or other license tags need be taken out for the operation of such motor vehicle until the beginning of the next tax year. Provided, each and every change of ownership of such automobile, or other motor vehicle, and the name and address of the new or successive owner are noted by the Probate Judge on his record of the license and reported by him within ten days after such change in ownership is reported to him to the State Tax Commission and it shall be the duty of the old and new and successive owners to report such change in ownership to the Probate Judge within five days from such change in ownership. (b) That no motor vehicle license tags shall be transferred from one motor vehicle to another motor vehicle, nor shall any motor vehicle be operated with motor vehicle license tags which were originally purchased or taken out for use on or for the operation of another motor vehicle. (c) When a motor vehicle is acquired under legal proceedings or is repossessed under authority of conditional sales contract or mortgage or other lien, the person so acquiring such motor vehicle shall file with the Probate Judge a copy of such court order or memorandum of sale, signed by the auctioner or other person selling the same at foreclosure or under conditional sales contract, mortgage or lien, and such

order or memorandum shall be properly noted on the duplicate license record and retained in the probate office and report thereof mailed to the State Tax Commission within ten days. (d) That any person failing to perform the duty required of him by the provisions of this Section shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than twenty dollars and not exceeding one hundred dollars for each offense.

Schedule 158.15. The provisions of the foregoing sections relative to registration and display of registration numbers shall not apply to a motor vehicle owned by a non-resident of this State and not used for hire in this State, for a period of 30 days from date of entering the State, provided that the owner thereof shall have complied with the provisions of the law of the foreign country, state, territory or Federal district of his residence relative to registration of motor vehicles and the display of registration numbers thereon, and shall conspicuously display his registration number as required thereby; Provided further that nothing therein shall be construed to permit the use of motor vehicles for hire by non-residents without complying with the provisions of this Act. Provided, that motor vehicles of non-residents used for hire and making not more than three trips during any period of three months in this State and which pay all mileage taxes required by law, may secure a permit from the State Tax Commission under such rules as the State Tax Commission may prescribe and upon the payment of a Five Dollar (\$5.00) fee for each trip to the State Tax Commission; provided, each trip shall be reported to the State Tax Commission and no such motor vehicle shall make more than three trips in this State during any three month period and no such motor vehicle shall carry anything but goods to be transferred from without the State to points within the State, but such motor vehicle may, on its return trip, secure permit from the State Tax Commission after the additional payment of Five Dollars (\$5.00), to carry goods on its return trip from points within Alabama to points without Alabama. Said permit shall be issued for a specified motor vehicle and shall not be transferable to any other person or any other vehicle.

Schedule 158.16. It shall be unlawful for any person to mutilate or alter for the purpose of deception any motor vehicle tag provided by this Act. It shall also be unlawful for any person to use upon his car tag in imitation of or substitution for real tags lawfully used. It shall be the duty of all sheriffs, police officers, license inspectors and other officers to arrest persons violating these two preceding provisions, and a fine of not less than five dollars (\$5.00) and not more than one hundred dollars (\$100.00) may be imposed for each offense. In case the

tags or either of them become mutilated beyond recognition, the owner of the vehicle may file with the State Tax Commission an affidavit setting forth the fact that the tags or one of them has been lost, mutilated or destroyed and upon payment of one dollar (\$1.00) (for each tag) and the surrender of the tag or tags so mutilated or destroyed, new tags shall be issued to the owner by the Commission. In case of mutilated tags the same shall be forwarded with affidavit to the Tax Commission and should the lost tag come into his possession it shall be the duty of the person coming into the possession of the tag to immediately forward the old tag to the State Tax Commission. Should he, or any one else use upon any motor vehicle the old replaced tag or tags he shall be fined twice the amount the license required for motor vehicles upon which the tag is used and shall also be required to procure a license for said motor vehicle. Any one who makes any false affidavit in obtaining tags from the State Tax Commission shall be guilty of perjury. Justices of the Peace and Inferior Courts with like jurisdiction shall be authorized and shall have jurisdiction for violation of the motor vehicle laws except in the case of felonies.

Schedule 158.17. All motor vehicle licenses under this Act shall become due on October 1st of each year and delinquent on November 15th thereafter.

Schedule 158.18. The registration fee or license tax herein required to be paid on motor vehicles shall be in lieu of all other privilege or license taxes which the State, or any county or municipality thereof might impose, where the motor vehicle is used by the owner. Provided further, that only one of such license tax can be levied and collected on one and the same motor vehicle for one and the same period of time; provided further, that incorporated cities and towns are hereby authorized to collect a reasonable license or privilege tax on motor vehicles used for carrying passengers or freight for hire.

Schedule 158.18½. Within 10 days after the end of each month, the Judge of Probate must remit to the State Treasurer at the expense of the State, all money received by him for motor vehicle licenses belonging to the State, and pay to the County Treasurer all the money received by him for motor vehicle licenses belonging to the county, and pay to the Town or City Treasurer all the money received by him for motor vehicle licenses belonging to the towns or cities, and within the same time the Judge of Probate shall forward to the State Comptroller and to the State Tax Commission each a certified list of all motor vehicle licenses issued by him, stating therein the amount collected for each license tag, the number of the tag, the motor number of the vehicle, the name and address of the owner, and the date of the issuance of said tag; and if no licenses have been

issued, he shall report that fact. The Judge of Probate shall be entitled to receive two and one-half per cent of the amount of money collected for motor vehicle licenses due the State, which he may deduct from his remittance to the State Treasurer and he shall be entitled to the same amount as compensation for collecting motor vehicle licenses due the county, which amount he may deduct from the payment made by him to the County Treasurer, and he shall be entitled to the same amount as compensation for collecting motor vehicle licenses due the towns or cities, which amount he may deduct from the payment made by him to the Town or City Treasurer, but he shall not be allowed any commission on any money not remitted by him within five days from the end of the month. If the Judge of Probate fails to comply with the provisions of this section within ten days after the date on which he is required to make such report, and to remit the money collected by him, the Comptroller shall forthwith report the fact to the Governor, who shall cite such Judge of Probate to show why he has not made report of the list of motor vehicle licenses and paid over the amount collected by him as required by law, and if such Judge of Probate fails to show sufficient cause for such failure, the Governor shall direct the Attorney General to institute impeachment proceedings against him before the Supreme Court.

Schedule 158.19. The money collected as motor vehicle and trailer license taxes, less all the expense necessary for the purchase and delivery of the motor vehicle tags required by this Act, the purchase and delivery of the blank receipts, license blanks and other printing necessary in the licensing and taxing of motor vehicles, and the salary of officers or employees engaged in such department, together with all other necessary expenses for the enforcement of this Act, shall be distributed as follows: Eighty per cent (80%) to the State and twenty per cent (20%) to the incorporated city or town in which the owner of the motor vehicle resides, and twenty per cent (20%) to the county if the owner of the motor vehicle resides outside of an incorporated city or town. The money collected as motor vehicle license taxes by the State, less salaries and expenses, shall be used exclusively to create a sinking fund for the prompt and faithful payment of the principal and interest on good road bonds and for construction, maintenance and as required under provisions of Article XX of the Constitution of Alabama.

Schedule 158.20. The Probate Judge for issuing the licenses required by this Chapter of this Article, shall be allowed a fee of fifty cents for issuing each license for operating motor vehicles, which shall be paid to the Probate Judge by the owner at the time of the issuance of the license tag.

Schedule 158.21. All mileage tax required by the Act known as the "Alabama Motor Carrier Act of 1931" approved June 19,

1931, to be paid by motor transportation companies as defined in said Act, shall be due as provided under said Act and shall be paid to the State Tax Commission. Every motor Transportation company operating under the provisions of said Act shall file with the State Tax Commission the sworn statement or report respecting said mileage tax as now required under said Act to be filed with Alabama Public Service Commission, and shall make payment of said mileage tax to said State Tax Commission as such company is now required to make payment of same under said Act to Alabama Public Service Commission. The State Tax Commission is given full power and authority to collect all such mileage tax, and to prescribe records to be kept and reports to be made by such companies to facilitate the collection of such mileage tax. All such mileage tax collected by the State Tax Commission shall be paid into the State Treasury by the State Tax Commission upon receipt thereof and shall be kept separate and apart from all other funds by the State Treasurer in a fund to be known as the "Motor Carrier Fund". All other fees required to be paid under said "Alabama Motor Carrier Act of 1931" shall be payable to and collected by Alabama Public Service Commission and upon receipt thereof shall be paid into the State Treasury and shall be kept separate and apart by the State Treasurer in said "Motor Carrier Fund."

Schedule 158.22. The mileage tax required under the provisions of House Bill 113, approved October 28, 1932, General Acts of Alabama, Extra Session 1932, pages 178-190, to be paid by the contract carriers and common carriers subject to the provisions of said last named Act to the State as compensation for use of the public highways of the State, shall be paid to the State Tax Commission instead of to the Alabama Public Service Commission as required under said Act. The State Tax Commission is empowered and directed to collect all of such mileage taxes under said last named Act. In order to ascertain the mileage traveled in this State by motor vehicles subject to the provisions of said last named Act, the State Tax Commission shall prescribe the records to be kept and reports to be made by said contract carriers and common carriers subject to said Act, and on or before the 15th day of each month, each such carrier shall file with the State Tax Commission, in accordance with its requirements, a statement verified under oath by the carrier, or by a person having knowledge of the facts and duly designated therefor by the carrier, showing the mileage traveled in this State by each motor vehicle subject to the provisions of said Act, operated by such carrier during the preceding calendar month and shall, at the time of filing of such report, pay to the State Tax Commission the mileage tax re-

flected by it. All said mileage taxes collected by the State Tax Commission under said last named Act shall be paid into the State Treasury upon receipt thereof, and shall be kept separate and apart by the State Treasurer in said fund to be known as the "Motor Carrier Fund." All of the fees required to be paid under said last named Act, approved October 28, 1932, shall be paid into the State Treasury upon receipt thereof and shall be kept separate and apart from all other funds by the State Treasurer in said fund to be known as the "Motor Carrier Fund", which fund shall be used as herein provided.

Schedule 158.23. Said "Motor Carrier Fund", into which said mileage tax and fees are paid under the two preceding sections hereof, shall be used as follows: (a) For the payment of all necessary expenses incurred by the State Tax Commission in the discharge of its duties incident to the collection of said mileage tax, as approved by the Governor. (b) For the payment of all necessary expenses, as approved by the Governor, of the Public Service Commission incurred in the discharge of its duties under said Act approved October 28, 1932, and in the discharge of its duties under the "Alabama Motor Carrier Act of 1931", including payment to the Public Service Commission of the appropriation of fifteen thousand dollars, subject to the approval of the Governor, now made to it under said "Alabama Motor Carrier Act of 1931." (c) The remainder of said "Motor Carrier Fund" shall be paid at the end of each fiscal year, or quarterly as determined by the Governor, into the State Highway Fund, to be used for the maintenance and construction of public highways in the State, and to defray the expenses as approved by the Governor incurred by the State Highway Department in its administration of its duties under said "Alabama Motor Carrier Act of 1931", and under said Act approved October 28, 1932. The expenses herein authorized to be paid out of said "Motor Carrier Fund" shall be paid by the State Treasurer out of said fund on a warrant drawn as prescribed by law with respect to other warrants. Any and all expenses paid by any of said departments out of said "Motor Carrier Fund" must be approved by the Governor.

#### Schedule 159.

Section 1. That in addition to all other taxes of every kind now imposed by law and which are not specifically repealed by this Chapter, every person, firm, corporation, club or association, within the State of Alabama, who sells and/or stores and/or receives for the purpose of distribution to any person, firm, corporation, club or association within the State of Alabama, cigars, cheroots, stogies, cigarettes, smoking tobacco, chewing tobacco, snuff, or any substitute therefor, either or all, shall pay to the State of Alabama for State purposes only a license or privilege

tax which shall be measured by and graduated in accordance with the volume of sales of such person, firm, corporation, club or association in Alabama. There is hereby levied license or privileges taxes on articles containing tobacco enumerated in this Chapter the following amounts: (1) Little Cigars:—Upon cigars of all descriptions made of tobacco or any substitute therefor, and weighing not more than three (3) pounds per thousand, one (\$0.01) cent for each ten (10) cigars, or fraction thereof. (2) Cheroots, Stogies, Etc.—Upon cigars of all descriptions made of tobacco or any substitute therefor, retailing for three and one-third ( $\$0.03\text{-}\frac{1}{3}$ ) cents each or less, one (\$1.00) Dollar per thousand, (3) Cigars:—Upon cigars of all descriptions made of tobacco, or any substitute therefor, retailing for more than three and one-third ( $\$0.03\text{-}\frac{1}{3}$ ) cents each and not more than five (0.05) cents each, Two (\$2.00) Dollars per thousand. (4) Cigars:—Upon cigars of all descriptions made of tobacco, or any substitute therefor, retailing for more than five (\$0.05) cents each and not exceeding eight (\$0.08) cents each, Three (\$3.00) Dollars per thousand. (5) Cigars:—Upon cigars of all descriptions made of tobacco, or any substitute therefor, retailing for more than eight (\$0.08) cents each and not exceeding ten (\$0.10) cents each, Five (\$5.00) Dollars per thousand. (6) Cigars:—Upon cigars of all descriptions made of tobacco, or any substitute therefor, retailing for more than ten (\$0.10) cents each and not exceeding twenty (\$0.20) cents each, Ten (\$10.00) Dollars per thousand. (7) Cigars:—Upon cigars of all descriptions made of tobacco, or any substitute therefor, retailing for more than twenty (\$0.20) cents each, Thirteen Dollars and Fifty Cents (\$13.50) per thousand. (8) Cigarettes:—Upon all cigarettes made of tobacco or any substitute therefor, three inches long or less and weighing not more than three (3) pounds per thousand, one and one-half ( $1\frac{1}{2}$ ) mills on each such cigarette. (9) Cigarettes:—Upon all cigarettes made of tobacco or any substitute therefor, over three inches long and less than six inches long, weighing not more than six (6) pounds per thousand, three (3) mills on each such cigarette. (10) Cigarettes:—Upon all cigarettes made of tobacco or any substitute therefor, more than six inches long and weighing more than six (6) pounds per thousand, six (6) mills on each such cigarette. (11) Smoking Tobacco:—Upon all smoking tobacco, including granulated, plug cut, crimp cut, ready rubbed and other kinds and forms of tobacco prepared in such manner as to be suitable for smoking in a pipe or cigarette; upon each package retailing for five (\$0.05) cents, or less, one (\$0.01) cent; upon each package retailing for more than five (\$0.05) cents each, an additional one (\$0.01) cent for each five (\$0.05) cents or fractional part thereof of the retail selling price



in excess of five (\$0.05) cents. (12) Chewing Tobacco:—Upon all chewing tobacco prepared in such manner as to be suitable for chewing only and not suitable for smoking as described and taxed in Section 11 above; upon each plug or package retailing for five (\$0.05) cents or less, one-half (\$0.0½) cent; upon each plug or package retailing for more than five (\$0.05) cents each, an additional one-half (\$0.0½) cent for each five (\$0.05) cents or fractional part thereof of the retail selling price in excess of five (\$0.05) cents. (13) Snuff:—Upon each can or package of snuff retailing for five (\$0.05) cents or less, one-half (\$0.0½) cent; upon each can or package of snuff retailing for more than five (\$0.05) cents each, an additional one-half (\$0.0½) cent for each five (\$0.05) cents or fractional part thereof of the retail selling price in excess of five (\$0.05) cents. (a) Whenever in this Chapter reference is made to any manufactured tobacco products, manufactured or imported to sell at a certain price, as the basis for computing the tax, it is intended to mean the ordinary, customary, or usual price paid by the consumer for each individual cigar, package of cigarettes, package of smoking tobacco, or any other tobacco products taxable under this Chapter. (b) When the retail or selling price is referred to in this Chapter as the basis for computing the amount of stamps required on any article, it is intended to mean the retail or selling price of the article before adding the amount of the tax. (c) When any articles or commodities subject to tax in this Chapter are given as prizes on punch boards, shooting galleries, premiums, etc., the tax shall be based on the ordinary selling price of such articles. (d) The tax herein levied shall be paid through the use of stamps herein provided for. Stamps in denominations to the amount of the tax shall be affixed to the box or other container from or in which tobacco products taxed by this Chapter are normally sold at retail. The stamps shall be affixed in such a manner that their removal will require continued application of water or steam; and, in case of cigars, cheroots, chewing tobacco and like manufactured tobacco products, where sales are made from the original container, the stamps shall be affixed to the box or container in such a way that the stamps shall be torn in two or mutilated when such containers or boxes are opened for the sale of the tobacco products. In the case of cigarettes, smoking tobacco, snuff and like products, sold by retail in packages, the required amount of stamps to cover the tax shall be affixed to each individual package or container. All taxable tobaccos herein enumerated, when offered for sale, either at wholesale or retail, without having stamps affixed in the manner set out in this Chapter, shall be subject to confiscation, in the manner provided for contraband goods as set out in this Chapter. (e) The description of tobacco prod-

ucts contained in Sub-sections 8 to 10, inclusive, of Section 1, of this Chapter, are hereby declared to be standard as to dimensions and weights for taxing purposes as provided in this Chapter and should any cigarettes be stored, sold or offered for sale or given away, of a size or weight other than the standard dimensions and weights set out in this Chapter, the same shall be taxed at the rate of one (\$.01) cent on each such cigarette. Provided, further, that where cigarettes described in Sub-section eight (8) of Section One (1) of this Chapter, are packed in varying quantities of less than twenty (20) cigarettes, the following rates shall govern: Packages containing ten (10) cigarettes or less shall require a two (\$.02) cent stamp; packages containing more than ten (10) cigarettes and not to exceed twenty (20) cigarettes, shall require a three (\$.03) cent stamp. Provided, further, that where cigarettes described in Sub-Section Nine (9) and Sub-section Ten (10) of Section One (1) of this Chapter, are packed in varying quantities of less than twenty (20) cigarettes, the following rates shall govern: Packages containing ten (10) cigarettes or less shall require a five (\$.05) cent stamp; package containing more than ten (10) cigarettes and not to exceed twenty (20) cigarettes, shall require a ten (\$.10) cent stamp.

**Section 2. METHOD AND TIME OF AFFIXING STAMPS:**—The license taxes imposed by this Chapter, shall be paid by affixing stamps in the manner and at the time herein set forth. In the case of cigars, stogies, cheroots, chewing tobacco and like products, the stamps shall be affixed to the box or container in which or from which normally sold at retail. In the case of cigarettes, smoking tobacco and snuff, the stamps shall be affixed to each individual package. Time allowed for affixing stamps shall be as follows: Every wholesale or retail dealer in this State shall immediately after receipt of any unstamped cigars, stogies, cheroots, chewing tobacco, cigarettes, smoking tobacco or snuff, unless sooner offered for sale, cause the same to have the requisite denominations and amount of stamp or stamps to represent the tax affixed as stated herein, and to cause same to be cancelled by writing or stamping across the face of each stamp the registered number of such wholesaler or retailer, said number to be furnished by the State Tax Commission. **WHOLESALE OR RETAIL DEALER:**—The stamping of said cigars, stogies, cheroots, chewing tobacco, cigarettes, smoking tobacco and snuff, shall actually begin within one (1) hour after receipt of said cigars, stogies, cheroots, chewing tobacco, cigarettes, smoking tobacco and snuff in the premises of the wholesale or retail dealer, and said stamping shall be continued with reasonable diligence by the wholesale or retail dealer until all of the unstamped cigars, stogies, che-

roots, chewing tobacco, cigarettes, smoking tobacco and snuff have been stamped and the stamps cancelled as provided by law. Provided, further, that any wholesale dealer engaged in interstate business who shall furnish surety bond in an amount and of tenor and solvency satisfactory to the State Tax Commission shall be permitted to set aside such a part of his stock as may be necessary for the conduct of such interstate business without affixing the stamps required by this Chapter. Said interstate stock shall be kept in an entirely separate part of the building, separate and apart from stamped stock. Every wholesale dealer shall at the time of shipping or delivering any tobacco products as enumerated herein make a true duplicate invoice of the same which shall show full and complete details of the sale or delivery of the taxable article, and shall retain the same subject to the use and inspection of the State Tax Commission, or its duly authorized agents for a period of three (3) years. Wholesale and retail dealers shall also keep a record of purchases of all tobacco products enumerated and defined herein, and hold all books, records, and memoranda pertaining to the purchase and sale of such tobacco products enumerated and defined herein, open to the inspection of the State Tax Commission or its duly authorized agents at any and all times. Every wholesale dealer shall furnish to the State Tax Commission a monthly report, between the First and Tenth of each month for the preceding month, of all orders for tobacco products enumerated and defined herein, purchased through said wholesale dealer from without this State on a drop shipment and consigned direct to the person, firm, corporation or association of persons ordering such tobacco products from without this State through such wholesale dealer. If, upon examination of invoices of any wholesale or retail dealer, he is unable to furnish evidence to the State Tax Commission of sufficient stamp purchases to cover unstamped tobaccos as enumerated and defined herein, purchased by him, the prima facie presumption shall arise that such tobacco products were sold without the proper stamps affixed thereto. Any wholesaler or retailer who fails or refuses to comply with any or all the above provisions, shall be deemed a violator of this Section and upon conviction shall be punished by a fine of not less than Five Hundred (\$500.00) Dollars, nor more than One Thousand (\$1,000.00) Dollars, or imprisonment in the county jail for a period of six (6) months, either or both, at the discretion of the Court.

Section 3. DROP SHIPMENTS:—Any retail dealer or semi-jobber of tobacco products enumerated and defined herein, purchasing, or receiving such commodities from without the State, whether the same shall have been ordered or purchased through a wholesaler or jobber in this State, and/or by drop ship-

ment and/or otherwise, shall within twelve (12) hours of receipt of such tobacco products, mail by registered mail a true duplicate invoice of all such purchases or receipts to the State Tax Commission at Montgomery, Alabama, said invoice carrying the name of the person or firm from whom or through whom such purchases or shipments of the tobacco products so received, showing kinds and quantities. Any retail dealer or semi-jobber failing or refusing to furnish duplicate invoices, in both the manner and time allowed, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Fifty (\$50.00) Dollars for each offense, or imprisonment in the county jail for a period not exceeding sixty (60) days.

Section 4. COMMODITIES SUBJECT TO CONFISCATION:—Any cigarettes, smoking tobacco, or cigars, stogies, cheroots, chewing tobacco, snuff or other products taxable under this Chapter found at any point within the State of Alabama, which said cigarettes, smoking tobacco, or cigars, stogies, cheroots, chewing tobacco, snuff or other products taxable under this Chapter shall have been within the State of Alabama for a period of two (2) hours, or longer, in possession of any retailer or semi-jobber, or for a period of thirty-six (36) hours or longer in possession of any wholesaler or jobber not having affixed to the package as above defined the stamps as above provided, are hereby declared to be contraband goods and the same may be seized by the State Tax Commission, or its agent and/or by any peace officer of the State of Alabama, without a warrant and the said goods shall be delivered to the State Tax Commission for sale at public auction to the highest bidder after due advertisement, but the State Tax Commission before delivering any of said goods so seized shall require the purchaser to affix the proper amount of stamps to the individual package as above defined. The proceeds of sale for any goods sold hereunder shall be turned over to the State Treasurer by the State Tax Commission as other funds collected by said Commission: Provided, That the cost of confiscation and sale shall be paid out of the proceeds derived from such sale before making remittance to the State Treasurer: Provided, further, That any of the goods, wares or merchandise herein enumerated and all such goods, wares or merchandise when offered for sale, either at wholesale or retail without the stamps having been first affixed, shall be subject to confiscation as hereinabove provided: Provided, further, That any vehicle, not a common carrier, which may be used for the transportation for the purpose of sale of unstamped articles as hereinabove enumerated shall likewise be subject to confiscation and sale in the same manner as above provided for unstamped goods, wares or merchandise. Provided, further, should any unstamped tobaccos as enumerated and defined herein be found in

any vehicle which is engaged in the sale, distribution or delivery of taxable tobaccos, the same shall be prima facie evidence that it was there for sale.

**Section 5. PROCEDURE WHEN GOODS ARE CONFISCATED:**—In all cases of seizure of any goods, wares, merchandise, or other property hereafter made as being subject to forfeiture under provisions of this Chapter which in the opinion of the officer, or person making the seizure, are of the appraised value of Fifty (\$50.00) Dollars, or more; the said officer or person shall proceed as follows: First, He shall cause a list containing a particular description of the goods, wares, merchandise, or other property seized to be prepared in duplicate and an appraisement thereof to be made by three sworn appraisers to be selected by him, who shall be respectable and disinterested citizens of the State of Alabama, residing within the county wherein the seizure was made. Said list and appraisement shall be properly attested by said officer, or person, and the said appraisers, for which service each of said appraisers shall be allowed the sum of One (\$1.00) Dollar per day, not exceeding two (2) days, to be paid by the State Tax Commission out of any revenue received by it from the sale of the confiscated goods or the compromise which may be effected. Second. If the said goods are believed by the officer making the seizure to be of value of less than Fifty (\$50.00) Dollars, no appraisement shall be made. The said officer, or person, shall proceed to post a notice for three (3) weeks, in writing at three (3) places in the county where the seizure was made, describing the articles and stating the time and place and cause of their seizure and requiring any person claiming them to appear and make such claim in writing within thirty (30) days from the date of the first posting of such notice. Third. Any person claiming the said goods, wares, or merchandise, or other property so seized as contraband within the time specified in the notice, may file with the State Tax Commission a claim in writing, stating his interest in the articles seized, and may execute a bond to the State Tax Commission in a penal sum equal to double the value of said goods so seized, but in no case shall said bond be less than the sum of Two Hundred (\$200.00) Dollars, with sureties to be approved by the clerk of the circuit court in the county in which the goods are seized, conditioned that in the case of condemnation of the articles so seized, the obligors shall pay to the State Tax Commission the full value of the goods so seized and all costs and expenses of the proceedings to obtain such condemnation, including a reasonable attorney's fee. And upon the delivery of such bond to the State Tax Commission, it shall transmit the same with the duplicate list or description of the goods seized to the Solicitor of the Circuit in which such seizure was made, and the said Solicitor shall file a bill in the Circuit Court in Equity of the county where

the seizure was made to secure the forfeiture of said goods, wares, merchandise, or other property. Upon the filing of the bond aforesaid the said goods shall be delivered to the claimant pending the outcome of said case; Provided, however, said goods must have the proper stamps affixed to each such article of tobacco before turning same over to claimant, the stamps so affixed to be paid for by claimant when goods properly stamped are delivered by the State Tax Commission. Fourth. If no claim is interposed and no bond given within the time above specified, such goods, wares, merchandise or other property shall be forfeited without further proceedings and the same shall be sold as herein provided. And the proceeds of sale when received by the State Tax Commission shall be turned in to the State Treasury as other revenues are required by law to be turned in: Provided, That in seizure in quantities of less value than Fifty (\$50.00) Dollars, the same may be advertised with other quantities at Montgomery, Alabama, by the State Tax Commission and disposed of as hereinabove provided. The proceedings against goods, merchandise, or other property, pursuant to the provisions of this Chapter, shall be considered as proceedings in rem unless otherwise herein provided. Provided, however, should the State Commission have to resort to the Courts for collection of the tax due and assessed, no advertisement shall be made and the confiscated tobaccos may be held as evidence pending the results of Court action.

Section 6. STATE TAX COMMISSION MAY COMPROMISE CONFISCATION:—The State Tax Commission may in its discretion return any goods, confiscated under this Chapter or any part thereof, when it is shown that there was no intention to violate the provisions of this Chapter. Provided, when any goods, merchandise, or other property, are confiscated under the provisions of this Chapter, the State Tax Commission may, in its discretion, return such goods to the parties from whom they are confiscated if and when such parties shall pay to the State Tax Commission, or its duly authorized representative, an amount equal to the tax due under this Chapter on the goods confiscated, and in such cases no advertisement shall be made or notices posted in connection with said confiscation. The State Tax Commission may promulgate rules and regulations governing the stamping of any articles or commodities enumerated herein handled by persons, firms, or corporations operating on inter-state common carriers. Any rules or regulations of the State Tax Commission, when duly made and promulgated shall have the full force and effect of law. Any person violating such rule when duly made and promulgated, shall be guilty of a misdemeanor and shall upon conviction be fined not less than Fifty (\$50.00) Dollars, nor more than One Hundred (\$100.00) Dollars for each offense.

Section 7. All "Common Carriers", contract carriers, buses, and trucks transporting tobacco products may be required under regulations to be prescribed by the State Tax Commission to transmit to the State Tax Commission a periodic statement of such consignments or deliveries of tobacco products showing date, point of origin, point of delivery and to whom delivered, and time of delivery, and all common carriers, buses, or trucks shall permit examination by the State Tax Commission or its agents, of their records relating to shipment or receipt of tobacco products. Common carriers, buses, and trucks shall permit the examination of their records of shipment or receipts relating to tobacco products, when and where investigation made by the State Tax Commission or its agents may deem it advisable and necessary to the enforcement of this Chapter. Inspectors, stamp deputies and other duly authorized agents of the State Tax Commission, on proper identification from an authorization by the State Tax Commission, shall make such examination. Any person, firm, corporation, partnership or association of persons, who refuses to transmit to the State Tax Commission the statements hereinabove provided for, or who refuses to permit the examination of his records by the State Tax Commission or its duly authorized agent, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred (\$100.00) Dollars, nor more than Five Hundred (\$500.00) Dollars for each such offense.

Section 8. ENFORCEMENT BY INSPECTION:—PENALTIES FOR INTERFERING WITH INSPECTION:—It shall be provided by regulations of the State Tax Commission the methods of breaking packages, forms and kinds of containers and methods of affixing stamps that shall be employed by persons, firms or corporations subject to the tax imposed by this Chapter which will make possible the enforcement of payment by inspection and any person, firm or corporation subject to this tax, engaging in or permitting such practices as are prohibited by regulations of the State Tax Commission or in any other practice which makes it difficult to enforce the provisions of this Chapter by inspection, or if any person, firm or corporation, agent or officer thereof, who shall upon demand of the State Tax Commission, any officer, or agent of the State Tax Commission, refuses to allow full inspection of the premises or any part thereof, or who shall hinder or in anywise delay or prevent such inspection when demand is made therefor, or in any way interferes with any agent of the State Tax Commission in the performance of his duties in enforcing this Chapter, (confiscation of tobaccos deemed by agent of the State Tax Commission to be contraband, is hereby declared to be one of the duties of an agent of the State Tax Commission), shall be deemed to be guilty of a misdemeanor and shall, upon conviction, be fined not less than One Hundred

(\$100.00) Dollars, nor more than Two Hundred (\$200.00) Dollars for each offense, or imprisonment in the county jail for a period not exceeding ninety (90) days, or both, in the discretion of the Court.

**Section 9. RECORDS:**—It shall be the duty of every person, firm, corporation, club or association of persons, receiving, storing, selling or handling tobacco products enumerated herein in any manner whatsoever, to keep and preserve all invoices, books, papers, cancelled checks, or other memoranda touching the purchase, sale, exchange or receipt of any and all tobacco products enumerated herein for a period of three (3) years. All such invoices, books, papers, cancelled checks or other memoranda shall be subject to audit and inspection by any duly authorized representative of the State Tax Commission at any and all times. Any person, firm, corporation, club or association of persons who fails or refuses to keep and preserve the records as herein required, or who upon request by a duly authorized agent of the State Tax Commission fails or refuses to allow an audit or inspection of records as herein above provided, shall be guilty of a misdemeanor and shall upon conviction be punished by a fine of not less than Fifty (\$50.00) Dollars, nor more than Two Hundred (\$200.00) Dollars, or imprisonment in the county jail for a period not to exceed ninety (90) days for each offense.

**Section 10. REPORTS BY WHOLESALERS:**—Each and every wholesaler or jobber, qualifying as such with the State Tax Commission, shall be required to file a report between the First and Tenth of each month, covering the purchase and/or receipt by them of all tobacco products enumerated and defined herein, during the preceding month. Said report shall give in detail the different kinds and quantities of tobacco products so purchased and/or received by them during the preceding month. Any wholesaler or jobber failing or refusing to file the above report in the manner and time allowed, shall be deemed a violator of this Section and upon conviction shall be fined not less than One Hundred (\$100.00) Dollars, nor more than Five Hundred (\$500.00) Dollars for each offense.

**Section 11. (a) DISCOUNTS ALLOWED FOR HANDLING STAMPS:**—WHEN BOND FURNISHED STAMPS MAY BE CONSIGNED:—The State Tax Commission is hereby authorized and directed to have prepared and distributed stamps suitable for denoting the tax on all articles enumerated herein. Any person, firm, corporation, or association of persons, other than the State Tax Commission, who sells tobacco tax stamps, not affixed to tobacco sold and delivered by them, whether the said stamps be genuine or counterfeit, shall be guilty of a felony and punishable as set out in Section 17 (a) of this Chapter. When wholesalers or jobbers have qualified as such with the State Tax



Commission as provided in Section 13 of this Chapter, and desire to purchase stamps as prescribed herein for use on taxable tobaccos sold and delivered by them, the State Tax Commission shall allow on such sales of tobacco tax stamps, the following discounts: On a sale of \$100.00 or over and less than \$200.00, a discount of three (3) percent on the entire amount of the sale; on a sale of \$200.00 or more, a discount of ten (10) percent on the entire amount of the sale: Provided, That where wholesalers or jobbers are entitled to purchase stamps at a discount of ten (10) percent, as herein provided, instead of the State Tax Commission selling said stamps to such jobbers or wholesalers for cash, it may consign such stamps, if and when such wholesaler or jobber shall give to the State Tax Commission a good and sufficient bond executed by some surety company authorized to do business in this State, conditioned to secure the payment for the stamps so consigned when and as they are used on manufactured tobacco products by such wholesaler or jobber. Every wholesaler or jobber purchasing stamps on consignment as described herein, shall be required to make a full and complete accounting and remittance on or before the tenth of each month for all stamps used on taxable tobaccos during the preceding month. Every wholesaler or jobber refusing or failing to comply with this section shall forfeit the commission or discount on stamps used which he failed or refused to account or remit for in the time allowed, and in addition shall be charged interest on such delinquent amount for each day delinquent at the rate of eight (8) percent per annum.

Section 12. NON TAXABLE SALES:—Where goods, wares or merchandise enumerated herein are sold and/or shipped to any person, firm, corporation or association of persons in another State, the seller and/or shipper in this State shall make and preserve for three (3) years a duplicate invoice or bill, giving the name of the person, firm, corporation or association of persons to whom shipped, delivered or sold, the date and the quantity of such merchandise so sold or shipped. Said seller in this State must have on file freight, express or postal receipt for such merchandise showing same was turned over to a common carrier engaged in inter-state commerce; further, if said merchandise be delivered by a conveyance belonging to seller in this State, said seller must have on file a receipt signed by purchaser showing such goods, wares, or merchandise were received by him in another State. All of the above records shall at all times be subject to the inspection and audit of any duly authorized agent of the State Commission Provided, further, that any goods, wares, or merchandise enumerated herein, that are sold to the United States Government for army, navy, or marine purposes, and which shall be shipped from a point within this State to a place which

has been lawfully ceded to the United States Government for army, navy, or marine purposes, shall be subject to the same provisions as hereinabove mentioned for goods, wares or merchandise sold or shipped to another State. Provided, further, that in case of goods, wares or merchandise enumerated herein, which shall be sold or delivered to ships belonging to the United States Navy for distribution and sale to members of the military establishment only, or sold and delivered to ships regularly engaged in foreign or coast-wise shipping between points in this State and points outside this State, shall be subject to the same provisions as hereinabove mentioned for goods, wares, or merchandise sold or shipped to another State. Provided, further, that the State Tax Commission may promulgate rules and regulations from time to time to prevent any abuse of the provisions contained herein. Provided, further, that any person, firm, corporation or association of persons, who shall be found guilty of violating any of the provisions as set out in this Sub-section (12) of this Chapter, or who received or stores any of the articles of tobaccos enumerated herein for sale within the State of Alabama, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$200.00, nor more than \$500.00, or imprisoned in the county jail for a period not to exceed six months, either or both, at the discretion of the Court.

Section 13. DEFINITION OF "WHOLESALE AND JOBBER", "RETAILER", and "STAMPS":—(a) The phrase "Wholesale Dealer and Jobber," as used in this Chapter shall include persons, firms, or corporations who sell at wholesale only any one or more of the articles taxed herein to licensed retail dealers for the purpose of re-sale only. (b) The phrase "Retail Dealer", shall include every person, firm or corporation other than a wholesale dealer, as defined in this sub-section, who shall sell or offer for sale any one or more of the articles taxed herein, irrespective of quantity or amount, or the number of sales; and all persons operating under a retail dealer's license. (c) The word "Stamps", as used herein means the stamp or stamps by the use of which the tax levied under this Act is paid and shall be designated Alabama Revenue Stamps. The State Tax Commission shall design the form and kind of stamps to be used and shall duly adopt and promulgate such form of stamps. Such stamps so adopted and promulgated shall be known and termed as "Alabama Revenue Stamp", and in any information or indictment, it shall be sufficient to describe the stamps as "Alabama Revenue Stamps." (d) No person, firm, corporation, association or co-partnership operating more than one retail store or mercantile establishment within this State under the same ownership, supervision or management, or operating a wholesale and retail business under the same roof, shall be included within the meaning or the words, "Wholesaler or Jobber".

as the same are used in this Chapter. This provision is made in the exercise of the police power of the State, as well as for the purpose of raising revenue. Provided, however, every wholesaler and/or jobber who desires to qualify as such with the State Tax Commission, shall make application to the State Tax Commission on blanks prescribed for this purpose, which shall be supplied upon request. Said application blanks will require such information relative to the nature of business engaged in by said wholesaler or jobber, as the State Tax Commission deems necessary to the qualifying of said wholesaler or jobber, which and when being received by the State Tax Commission, it believes said wholesaler or jobber to be qualified, shall issue to said wholesaler or jobber a permit qualifying him as a wholesaler or jobber, as defined in this Chapter and he shall be allowed the discount on purchases of stamps as set out herein for wholesalers or jobbers, purchasing stamps for their individual use. The State Tax Commission shall not sell any stamps or allow any discount on any sale of stamps to any wholesaler or jobber until said wholesaler or jobber shall have complied with all of the provisions of this Section. The State Tax Commission may at any time revoke the permit issued to any wholesaler as herein above provided who shall be guilty of violating any of the provisions of this Chapter, or any of the rules of the State Tax Commission adopted and promulgated under authority of this Chapter, and refuse to sell any wholesaler or jobber, any stamps until such time as his permit shall be restored.

Section 14. SALES BY WHOLESALE DEALER:—Every wholesale dealer in this State shall before shipping, delivering or sending out any one or more articles taxed herein, to any dealer in this State or for sale in this State, cause the same to have the requisite denominations and amount of stamp, or stamps, to represent the tax affixed as stated herein and cause the same to be cancelled by writing or stamping across the face thereof the number of such wholesale dealer, said number to be supplied by the State Tax Commission, and every other wholesale dealer shall at the time of shipping or delivering any one or more articles taxed herein make a true duplicate invoice of the same showing the date, amount and value of each class of articles shipped or delivered and retain a duplicate thereof, subject to the audit and inspection of the State Tax Commission, its authorized agents and representatives, for three years. Provided, however, that wholesale dealers in this State who ship, deliver, or send anyone or more articles taxed herein to the United States Government, for sale or distribution, to any military, naval or marine reservation owned by the United State Government within this State, shall be required to carry out the provisions set out in this Chapter for such sales or deliveries.

**Section 15. PENALTIES FOR EVADING STAMP TAX:—**  
**TRIAL BY JURY IF DESIRED:—**Persons failing to properly affix the required stamps to any cigars, cheroots, stogies, cigarettes, and smoking tobacco, chewing tobacco and snuff, shall be required to pay as part of the tax imposed hereunder, a penalty of not less than Twenty-five (\$25.00) Dollars, nor more than Five Hundred (\$500.00) Dollars, to be assessed and collected by the State Tax Commission, as other taxes are collected. And each article or commodity not having proper stamps affixed thereto as herein required shall be deemed a separate offense. Provided, that any cigars, cheroots, stogies, cigarettes, and smoking tobacco, chewing tobacco and snuff, in the place of business of any person required by the provisions of this Chapter to stamp the same shall be prima facie evidence that they are intended for sale: Provided, further, that if within ten (10) days and not thereafter, after notification in writing by the State Tax Commission, or its duly authorized agent, to the person, firm, or corporation, of its failure to properly affix the required stamps to any article or commodity, within ten (10) days after written notification to him that he has sold any article or commodity requiring stamps without having the stamps properly attached thereto as required by this Chapter, the party charged, or to be charged with such omission as herein provided, shall have the right within said time, and not thereafter, to demand a trial of the issue before a court of competent jurisdiction in the manner now provided by law for the trial of civil actions or civil suits. The written notice herein required may be served by mail. When it is so served, the paper must be deposited in the Post Office addressed to the person on whom it is to be served at his last known place of residence and the postage paid, and the ten days herein provided shall begin to run from the date of mailing. Said notice may also be personally served by any agent of the State Tax Commission, or any other person, by delivering the same to the person or corporation charged, or by leaving the same in the place of business of such person, or corporation: Provided, further, that the State Tax Commission, upon good cause shown may in its discretion remit a part of the penalties prescribed above herein, but in no case shall it accept less than the minimum penalty provided for each offense. Provided, further, that any person, firm, corporation, club or association of persons, who has been found guilty of violating any of the provisions of this Chapter and who, after being punished by fine penalty, assessment or imprisonment, shall be guilty of a second or subsequent violation of this Chapter, shall upon being found guilty of such second offense, have their license as provided in Schedules 32 and 33 of Article XIII, Chapter 1, Section 348 of this Act, revoked by the State Tax Commission and no further license or permit shall be issued or granted to such person, firm, corporation, club or association of persons for

a period of one year from the date their license or permit shall have been revoked. Notice of such revocation shall be mailed to the Probate Judge and License Inspector of the county in which the revocation was made by the State Tax Commission. Provided, further, that any judgment rendered in favor of the State in any civil action or suit shall be a first preferred lien for taxes upon all property of the taxpayer and in the event of non payment shall be filed in the office of the Clerk of the Circuit Court in the county where taken and execution may be issued by the State Tax Commission, as now provided by law.

Section 16. TRANSPORTING AND DISTRIBUTING TOBACCO PRODUCTS:—Each and every person, firm, corporation, club or association of persons transporting and/or distributing in any manner whatsoever, any tobacco products as enumerated and defined herein within the State of Alabama, who has not a license as prescribed in Schedule 32 and 33 of Article XIII, Chapter 1, Section 348, of this Act; shall before transporting and/or distributing any of such tobacco products as enumerated and defined herein, secure a permit from the State Tax Commission. The State Tax Commission shall before issuing said permit, ascertain from the applicant as to the nature of his business and the names of each county said applicant desires to transport and/or distribute tobacco products as heretofore defined. The State Tax Commission shall before issuing said permit charge and collect the following fees for transporting and/or distributing tobacco products enumerated and defined herein; For transporting and/or distributing said tobacco products in counties of 25,000 population or less a fee of Five (\$5.00) Dollars for each such county: In counties of over 25,000 population and not to exceed 40,000 population, a fee of Ten (\$10.00) Dollars for each such county. In counties of over 40,000 population and not to exceed 55,000 population, a fee of Fifteen (\$15.00) Dollars for each such county: In counties of over 55,000 population and not to exceed 70,000 population, a fee of Twenty (\$20.00) Dollars for each such county: In all counties over 70,000 population, a fee of Twenty Five (\$25.00) Dollars for each such county, provided that each such person, firm, corporation club or association of persons securing a permit as herein above provided for, shall be allowed for each such permit so secured: One (1) vehicle for the purpose of transporting and/or distributing such tobacco products as enumerated herein. Provided, further, that said permit shall not be transferable as to person or vehicle and further, said permit shall be conspicuously displayed on the vehicle on which it was issued. Failure to properly display permit as hereinabove required shall be deemed a violation of this Section. Provided, further, any person, firm, corporation, club or association of persons, having been issued a permit, who engages in any practices which are deemed by the State Tax Commission to be in-

jurious to the collection of the taxes provided herein, may have their permit revoked by the State Tax Commission and no further permit shall be issued for six months and not then unless the State Tax Commission is satisfied it is advisable. Any person, firm, corporation, club or association who is found transporting and/or distributing any tobacco products refined herein, without first securing permit as provided above, shall be deemed a violator of this Section and upon conviction shall be punished by a fine of not less than Five Hundred Dollars (\$500.00), nor more than One Thousand (\$1,000.00) Dollars for each such offense.

Section 17 (a):—PENALTIES FOR FRAUD IN USE OR RE-USE OF STAMPS:—That whoever removes or otherwise prepares any Alabama Revenue Stamps with intent to use, or cause the same to be used, after it has already been used, or buys, sells, offers for sale, or gives away any such washed or removed or restored stamps to any person for using or who used the same, or has in his possession any washed or restored or removed or altered stamp which has been removed from the article to which it has been previously affixed, or whoever for the purpose of indicating the payment of any tax hereunder re-uses any stamp which has heretofore been used for the purpose of paying any tax provided in this Chapter, or whoever except the State Tax Commission sells any Alabama Revenue Stamps not affixed to taxable tobaccos as provided herein, is guilty of a felony and, upon conviction, shall be punished by imprisonment in the penitentiary for not less than a year and a day, nor more than five (5) years, and in addition may be fined not less than One Thousand (\$1,000.00) Dollars nor more than Five Thousand (\$5,000.00) Dollars. (b) COUNTERFEIT STAMPS:—That whoever manufacturers, buys, sells, offers for sale, or has in his or its possession any reproduction or counterfeit of the Alabama Revenue Stamps provided for in this Chapter, is guilty of a felony and, upon conviction, shall be punished by imprisonment in the penitentiary for not less than a year and a day, nor more than ten (10) years, and in addition, may be fined not less than Two Thousand (2,000.00) Dollars, nor more than Ten Thousand (\$10,000.00) Dollars.

Section 18. POWERS OF TAX COMMISSION:—That the State Tax Commission shall administer and enforce the taxes imposed by this chapter, it shall have the power to enter upon the premises of any tax-payer and to examine, or cause to be examined, by any agent or representative designated by it for that purpose, any books, papers, records, or memoranda, etc., bearing upon the amount of taxes payable, and to secure other information directly or indirectly concerned in the enforcement of this Chapter.

Section 19. Any person, firm, corporation, club or association of persons, who purchases, and/or receives in any manner whatsoever any of the articles of tobacco enumerated herein, which does

not have affixed revenue stamps as described in this Chapter, shall within three (3) days of receipt of such articles of tobacco, report the receipt of purchase of said tobacco to the State Tax Commission, giving the date of purchase or receipt, the name of person or firm from whom purchased or received and a list describing the articles of tobacco so purchased or received. This report must be made by registered mail or in person. Any person, firm, corporation, club or association of persons who fails and/or refuses to make the report as required in this sub-section shall be guilty of a misdemeanor and upon conviction shall be fined not less than Five (\$5.00) Dollars, nor more than One Hundred (\$100.00) Dollars, or imprisoned not to exceed thirty days for each offense.

Section 20. Any person, firm, corporation, club or association of persons, who shall re-use or re-fill with any tobacco products enumerated herein, any box, package or container from which tobacco products theretofore tax paid have been removed, shall be guilty of a misdemeanor and upon conviction shall be fined not less than One Hundred (\$100.00) Dollars, nor more than Five Hundred (\$500.00) Dollars or imprisoned not to exceed six months, either or both, at the discretion of the Court.

Section 21. EXECUTION ISSUED FOR UNPAID TAXES OR PENALTIES:— If any taxes or penalties imposed by this Chapter remain due and unpaid for a period of ten (10) days, the State Tax Commission shall issue a warrant of execution directed to any sheriff of the State of Alabama commanding him to levy upon and sell the real and personal property of the taxpayer found within his county for the payment of the amount thereof, with penalties, if any and the costs of executing the warrant and to return such warrant to the State Tax Commission and to pay it the money collected by virtue thereof. Upon receipt of such execution, the sheriff shall file with the clerk of the Circuit Court of his county a copy thereof and thereupon the Clerk of the Circuit Court shall enter in his abstract of judgments the name of the taxpayer mentioned in the warrant and in proper columns the amount of tax, with penalties, and costs for which the warrant is issued and the date and hour when such copy is filed, and shall index the warrant upon the index of judgments. The sheriff shall thereupon proceed upon the warrant in all respects with like effect and in the same manner prescribed by law in respect to executions issued against the property upon judgments of a court of record and shall be entitled to the same fees for services in executing the warrant to be collected in the same manner. He shall make return of such execution to the State Tax Commission within thirty days of issuance thereof. The taxes and penalties imposed by this Chapter shall be deemed a debt owing to the State by the party against whom the same shall be charged and shall be a preferred lien upon all property of the party against whom the same shall be charged.

Section 22. The State Tax Commission is hereby authorized to employ such clerical assistants, field agents, or inspectors, as may be necessary to carry out, enforce and administer the provisions of this Chapter; to purchase "Revenue Stamps", required; to prepare and print such blanks, forms, reports, receipts and any and all other things which may be necessary to provide for the administration of this Chapter, and to pay any and all such expenses so incurred out of the fund collected under the provisions of this Chapter. Provided, further, that the State Tax Commission, with the approval of the Governor, is hereby authorized to fix the salary of each person employed under this Chapter. The sum of Five Thousand (\$5000.00) Dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the General Fund of the State Treasury not otherwise appropriated, to be available upon the approval of this Act by the Governor, and to be used by the State Tax Commission in defraying any expenses which may be incurred in the administration and in preparing to administer this Act before sufficient funds shall have been collected from license fees as hereinbefore provided. As soon as a sufficient amount of license fees shall have been collected under the provisions of this Chapter, the Five Thousand (\$5,000.-00) Dollars, hereby appropriated or so much thereof as shall have been used, shall be returned to the general Fund. Whereas an emergency exists for the immediate taking effect of this Subsection, the same shall be in full force and effect from and after its passage.

Section 23. Should the collection of any taxes under this Chapter be now or upon the passage of this Act prevented by the operation of the provisions of the Constitution of the United States, relating to interstate or foreign commerce, the Legislature hereby declares that should the Congress of the United States pass any legislation authorizing the taxation by the states of inter-state or foreign commerce, sales, shipment or receipts, or commodities transported therein, or receipts of sales therein, then the provisions of this Chapter shall apply to such sales, shipments or receipts as fully and completely as provided herein as to intra-state sales, shipments and receipts, to the extent that such Act and/or Acts of Congress authorizes and permits.

Section 24. All revenue collected under the provisions of this Chapter except as otherwise provided herein, shall be paid to the State Tax Commission by check or draft made payable to the State Treasurer of Alabama and shall be covered into the Alabama Special Educational Trust Fund under provisions of an Act of the Legislature approved July 22, 1927, Provided, further that the revenue payable hereunder is payable in money and the State Tax Commission may adopt such methods of payment as may be reasonable



and convenient, but no substitute for money shall constitute payment until the money is actually received.

Section 25. That the provisions of this Chapter shall go into effect immediately upon the passage of this Act.

Section 26. It shall be unlawful for any person, firm or corporation to receive in this State any shipment of any of the articles taxed herein when the same are not stamped as required by this Chapter, and knowing the same to be not so stamped, for the purpose and intention of violating the provisions of this Chapter, and to avoid payment of the taxes, and such person, firm, or corporation shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Twenty-five (\$25.00) Dollars, or sentenced to jail for not less than thirty (30) days or more than sixty (60) days, either or both. Provided that in the event this provision shall be declared unconstitutional by the Courts, it shall not affect the remaining sections of any other part or portion of this Schedule or Chapter.

Section 27. All laws and parts of laws in conflict herewith, either special or general, are hereby repealed, provided that nothing herein shall relieve any person, firm or corporation from any penalty or tax liability or forfeiture incurred under former laws.

Section 28. That nothing in this Chapter shall be construed as affecting Schedule 32 and Schedule 33 of Article XIII, Chapter 1, Section 348, of this Act.

Section 29. If any section, clause, provisions or portion of this Chapter shall be held to be invalid or unconstitutional by any Court of Competent Jurisdiction, such holding shall not affect any other sections, clause or provision or portion of this Chapter which is not in and of itself constitutional. It is hereby declared to be the intention of the Legislature that should any portion of this Chapter be declared unconstitutional, the remainder shall be in full force and effect and that the Legislature would have passed this Chapter without such invalid portion or provision.

Section 30. The exemptions from Tobacco Tax granted in the foregoing Chapter are hereby declared to be exclusive and any laws, or parts of laws, general, special or local, granting or attempting to grant any exemptions from Tobacco Tax, except as provided in this Chapter, are hereby specifically repealed.

Section 31. That the State Tax Commission is hereby authorized, empowered and directed to pay into Special Educational Trust Fund of the State of Alabama all of the revenue collected under sub-divisions 1 to 7, inclusive, and sub-sections 12 and 13 of this Schedule.

## ARTICLE XIII.

## Chapter 8.

Schedule 160. The term "insurance company," as used in this Chapter, shall include fire, life, benefit, accident, indemnity, fidelity, surety, guaranty, employers' liability, casualty, plate glass, burglary, automobile, tornado, cyclone, mutual aid, or industrial companies or associations, or any other insurance company or association charging a premium for contracts entered into by such companies or associations, but not including fraternal benefit societies or associations as defined by Section 8439 of 1923 Code of Alabama.

Schedule 160.1. No insurance company shall be admitted to or authorized to do business in this State until it shall file or deposit with the Superintendent of Insurance a properly certified copy of its charter or articles of incorporation, and a sworn statement of its financial condition as shown by the last annual statement. Such statement shall be on forms furnished by the Superintendent of Insurance and shall conform to the form of statement from time to time adopted by the National Convention of Insurance Commissioners. And such statement shall be published at the time of first filing, without expense to the State, in a daily newspaper of general circulation published in the State of Alabama.

Section 160.2. At the time of filing the certified copy of the charter or articles of incorporation of such insurance company, together with the financial statement, the Superintendent of Insurance shall collect from such company the sum of two hundred dollars (\$200.00) as a filing fee, to be paid into the State Treasury, and thereafter annually before the first day of March a similar annual statement shall be filed by the insurance company with the Superintendent of Insurance, and a like filing fee of two hundred dollars (\$200.00) shall be collected for the use of the State of Alabama.

Schedule 160.3. Every insurance company desiring to engage in business in this State, in addition to complying with the requirements of this Chapter, shall within the first sixty days of the calendar year, file with the Superintendent of Insurance a statement which shall show that the insurance company has complied with all the requirements of the law to authorize it to do business in this State, and shall also show the total amount of premiums received by it for business done in this State for the preceding calendar year ending December 31st, less return premiums. Such statement shall be verified by the affidavit of an officer of the company having knowledge of the facts, and such company shall at the same time pay to the Superintendent of Insurance the amounts set out in this Chapter.

Schedule 160.4. Each foreign fire or marine or fire and marine insurance company shall pay one and one-half dollars (\$1.50) on each one hundred dollars (\$100.00), and every other foreign insurance company, including foreign life insurance companies, shall pay two dollars and fifty cents (\$2.50) on each one hundred dollars (\$100.00) of the gross premiums received by it or them for business done in this State, whether the same are actually received by said company in this State or elsewhere, during the year ending the thirty-first day of December preceding, less return premiums, as a privilege tax or license for doing business in this State during the current year. Provided that any foreign insurance company entering the State shall, on or before March first of the year succeeding the year of its entry, remit with its statement to the Superintendent of Insurance the taxes as required by the first of this Section, on business written in Alabama for the preceding calendar year or fraction thereof in which it entered as a privilege or license tax for such first year or fractional year.

Schedule 160.5. After the insurance company has been operated in this State for one complete calendar year it shall compute its business done in Alabama during said year, and upon this basis it shall pay its taxes for that and the succeeding year. Each succeeding year the tax shall be based and paid on business done in Alabama for the preceding calendar year, as set forth in this Chapter.

Schedule 160.6. At the time of qualifying in addition to complying with the other provisions of law the Superintendent of Insurance shall collect from each reciprocal or inter-insurance exchange a filing and other fees of \$200.00 to be paid into the State Treasury and thereafter annually before the first day of March an annual statement shall be filed with the Superintendent of Insurance by such reciprocal or inter-insurance exchange, and like total filing fees of \$200.00 shall be collected for the use of the State of Alabama. In addition thereto each reciprocal or inter-insurance exchange writing fire or marine or fire and marine insurance shall annually pay to the Superintendent of Insurance a premium tax of \$1.50 on each hundred dollars of premiums collected in the State of Alabama, and each such reciprocal exchange writing other kinds of insurance shall pay a premium tax of \$1.50 on each hundred dollars of premiums collected in the state. In computing said tax such reciprocal exchange shall be permitted to deduct from gross premiums all return premiums and all savings or dividends returned to policyholders or credited to their accounts. Except as provided in this Schedule, the provisions of this Act shall not apply to reciprocal exchanges, their attorneys-in fact or traveling salaried employees who receive no commissions but in the event any such foreign exchange shall desire to appoint and does appoint local agents on a commission basis, such

reciprocal exchange shall procure license for such agents and pay the fees provided in Schedule 160.14 of this Chapter.

Schedule 160.7. Every domestic insurance company engaging in business in this State, in addition to complying with the other requirements of law shall within the first sixty days of the calendar year file with the Superintendent of Insurance a statement which shall show that the insurance company has complied with all the requirements of law to authorize it to do business as an insurance company in this State, and shall also show the total amount of premiums received by it for business done in this State for the preceding calendar year ending December 31st, less return premiums. Such statement shall be verified by the affidavit of an officer of the company having knowledge of the facts and the company shall at the same time pay to the Superintendent of Insurance the following amounts: to-wit: Each domestic fire or marine or fire and marine insurance company shall pay one dollar (\$1.00) on each one hundred dollars (\$100.00), and each other domestic insurance company, including domestic life insurance companies, shall pay one dollar (\$1.00) on each one hundred dollars (\$100.00) of the gross premiums received by it for business done in this State, whether the same are actually received by said company in this State or elsewhere during the year ending the thirty-first day of December preceding, less return premiums, as a privilege tax or license for doing business in this State during the current year, and no credit or deduction of any kind shall be allowed on account of the cost of re-insurance taken by such company in a company not authorized to do business in this State. Provided that any domestic insurance company beginning business after January 1st of any calendar year, on or before March 1st of the year following the year of beginning business, shall remit with its statement to the Superintendent of Insurance the taxes as required by this Section on business written in Alabama for the preceding calendar year or fraction thereof in which it began business as a privilege or license tax for such first year or fractional year; provided further, that after any domestic insurance company has been operating in this State for one complete calendar year, it shall compute its business done in Alabama during said year and upon this basis it shall pay its taxes for that and the succeeding year. Each succeeding year the tax shall be based and paid on business done in Alabama for the preceding calendar year as herein provided. It being the meaning and intent of this statute that both domestic and foreign insurance companies shall pay their license taxes on March 1st for the privilege of doing business for such current year, except that taxes for the first and second year shall be paid in the manner herein specifically provided.

Schedule 160.8. In ascertaining the privilege tax which shall be paid by domestic insurance companies under this chapter, there shall be deducted from the amount of premiums upon which taxes are computed the aggregate amount of loans of money made by such companies in this State and which shall be secured by existing mortgage or mortgages made directly to it on real estate in this State and upon which mortgage there shall have been paid the recording privilege tax required by law; and Provided Further, that where any domestic insurance company pays to the State an ad valorem tax on its property or shares it may deduct the amount of such tax from the privilege tax based on premiums, provided only the ad valorem tax actually paid during the year the premiums were received can be deducted and if such tax accrues but is not paid during the calendar year such premiums are received such credit shall not be given.

Schedule 160.9. The books of all domestic insurance companies shall be accurately kept and shall show the date of issuance and number of each policy, character and amount of each premium so received by it for business done in this State, and the name and address of each person from whom each premium was received. Said books shall always be open to the inspection and audit of the Superintendent of Insurance and the State Tax Commission. Any such insurance company failing to file any statement required by law with the Superintendent of Insurance, or wilfully failing to keep its books in substantial compliance with the provisions of this schedule, or refusing to allow an inspection or audit of its books at any time by the Superintendent of Insurance either or all then such company shall be guilty of a misdemeanor and shall pay to the State, in addition to said taxes, the sum of five hundred dollars (\$500.00) within sixty (60) days from the date of notice from the Superintendent of Insurance of such delinquency, shall be liable to a penalty of double the amount of such tax or license, and shall be barred from transacting any business of insurance in this State until such taxes and penalties are fully paid. No officer nor board shall have power or authority to remit or compromise any portion of the penalties herein prescribed.

Schedule 160.10. No license or privilege tax or other charge for the privilege of doing business shall be imposed by any municipal corporation upon any fire or marine insurance company doing business in such municipality, except upon a percentage of each one hundred dollars (\$100.00) of gross premiums, less return premiums, on policies issued during the preceding year on property located in such municipality. Such percentage shall not exceed four per cent (4%) on each one hundred dollars or major fraction thereof, of such gross premiums; and no credit or deduction of any kind shall be allowed or made on account of the cost of reinsurance

by such company in a company not authorized to do business in this State. Any municipality may charge a flat minimum license at the beginning of each year for new companies doing business therein, on which there shall be an adjustment at the expiration of such year upon such percentage as may be fixed by said municipality, but such percentage shall not exceed four per cent (4%). Such percentage shall not exceed four per cent (4%) of the gross premiums, less return premiums, collected by such companies on policies issued during the preceding year in such municipality. Provided, however, that no license or privilege tax shall be charged any insurance company by or on behalf of any county.

Schedule 160.11. In addition to said amount paid to the State, there may by ordinance be levied and collected by the several cities and towns of the State from every insurance company, other than fire and marine insurance companies, for the privilege of doing business within the limits of said cities and towns, a privilege or license tax, to be computed and based on the population of said cities and towns as fixed by the last Federal Census, not exceeding the following scale, to-wit: (a) Each insurance company, in cities and towns having a population of five thousand or less, ten dollars (\$10.00), and one dollar (\$1.00) on each one hundred dollars (\$100.00) and major fraction thereof, of the gross premiums, less return premiums, received during the preceding year on policies issued during said year to citizens of said cities and towns. (b) Each such insurance company, in cities and towns having a population of over five thousand and not over ten thousand, fifteen dollars (\$15.00), and one dollar (\$1.00) on each one hundred dollars (\$100.00) and major fraction thereof, on gross premiums, less return premiums, received during the preceding year on policies issued during said year to citizens of said towns and cities. (c) Each such insurance company, in cities and towns having a population of over ten thousand and not exceeding fifty thousand, twenty dollars (\$20.00), and one dollar (\$1.00) on each one hundred dollars (\$100.00) and major fraction thereof, of gross premiums, less return premiums, received during the preceding year on policies issued during said year to citizens of said cities and towns. (d) Each such insurance company, in cities and towns having a population of more than fifty thousand, fifty dollars (\$50.00), and one dollar (\$1.00) on each one hundred dollars (\$100.00) and major fraction thereof, of gross premiums, less return premiums, received during the preceding year on policies issued during said year to citizens of said cities and towns. Provided, however, that no license or privilege tax shall be charged any insurance company by or on behalf of any county.

Schedule 160.12. Upon the payment or tender of the amount named in such ordinance of any city or town, any such insurance company which is authorized to do business in this State shall be

permitted to do business in said city or town, through its agents who shall not be subject to or required to pay further privilege or occupational tax for representing such company or soliciting business for it.

Schedule 160.13. On the 31st day of December of each year, or within sixty days thereafter, each insurance company which did any business in any city or town in this State during any part of the preceding year shall, if a license or privilege tax is imposed by said city or town on such insurance company, furnish the Mayor or executive head of such city or town a statement in writing duly certified, showing the full and true amount of gross premiums received during the preceding year, as provided under this chapter, and shall accompany such statement with the amount of license tax due according to the foregoing section. Failure to furnish such statement or to pay such sum shall subject the company and its agents to such penalties as the ordinance of such city or town may prescribe for doing business therein without a license.

Schedule 160.14. Each foreign and domestic insurance company or reciprocal exchange desiring to carry on business in this State shall at the time of appointing or employing an agent or other representative and annually thereafter procure from the Superintendent of Insurance a certificate or license for such agent or other representative of such company or exchange soliciting business in this State. Such certificate shall be evidence that said company or exchange is authorized to do business, and that said agent or other representative is authorized to represent such company or exchange. The Superintendent shall collect for the use of the State for each certificate or license issued by him a fee of four dollars (\$4.00), and for each official seal impressed on said certificate a fee of one dollar (\$1.00).

Schedule 160.15. To assure the validity and construction of contracts according to the laws of this State, and to facilitate the collection of privilege taxes and fees for agents, all fire, surety and casualty insurance companies doing business in this State shall execute all contracts upon property or risks in this State through resident agents, duly licensed, who shall execute or countersign all such contracts. No special agent shall execute or countersign contracts. Each agent shall collect and retain the usual commission paid by the insurer except that not over one-half of such commission may be paid to a licensed non-resident agent or broker. Such agents shall keep a true record of all contracts thus executed or countersigned, and shall, upon request, furnish a verified copy thereof to the Superintendent to aid him in the collection of all privilege taxes due in this State. For failure of any agent to comply with the provisions of this paragraph, the Superintendent shall, for a first offense suspend the license of such agent for not exceeding six months, and for a second offense, revoke such

license. Non-resident agents, and non-resident brokers must also be licensed, and shall pay an annual license of twenty-five dollars (\$25.00), but shall not execute or countersign fire, surety or casualty insurance contracts. Special agents, both resident and non-resident shall also be licensed but shall not execute or countersign fire, surety or casualty insurance contracts. General agents, being defined as agents who represent one or more companies in a supervisory capacity and receive an overwriting commission on all business produced by local agents, shall also be licensed but shall not execute or countersign fire, surety or casualty insurance contracts. All such special and general agents above shall be licensed by each company that the said agents represent. Special resident solicitors shall also be licensed but shall not execute or countersign fire, surety or casualty insurance contracts. Solicitors are hereby defined to be those persons employed by regularly commissioned and duly licensed local agents authorized to solicit insurance for and on behalf of regularly commissioned and duly licensed agents.

Schedule 160.16. An adjuster who directly or indirectly enters into an adjustment of any loss arising under a contract of insurance issued by an unauthorized company shall be subject to all the pains and penalties inflicted by the law of this State upon agents for acting as agents for unlicensed insurance companies, and, in addition thereto, such adjuster shall be barred from adjusting losses in this State for a period of one year.

Schedule 160.17. No fire insurance company doing business in any municipality in this State having a population of less than 100,000, according to the last preceding Federal Census, shall be required to pay to such municipality for any license or license tax, a sum greater than four per centum of its gross premiums, less return premiums, received by such company on risks in such municipality, including any sum, or sums, required to be paid or contributed by such insurance company to any Firemen's Compensation, or Relief Fund in such municipality. Provided that no license or privilege tax, or other charge for the privilege of doing business shall be imposed by any municipal corporation on any fire insurance company writing industrial insurance.

Schedule 160.18. If by the laws of any other state any taxes, fines, penalties, licenses, fees or other obligations or prohibitions additional to or in excess of those imposed by the laws of this State upon insurance companies of other states and their agents are imposed on insurance companies of this State and their agents doing business in such state, like taxes, fines, penalties, licenses, fees or other obligations and prohibitions shall be imposed upon all similar insurance companies of such state doing business in this State so long as such laws remain in force.



Schedule 160.18½. No license or privilege tax shall be charged any insurance company by or on behalf of any county.

Schedule 160.19. For the purpose of maintaining the office of State Fire Marshal and paying the expenses incident thereto, every fire insurance company and other insurance companies writing fire insurance on automotive vehicles, whether upon the stock or mutual plan, and all individuals, firms, corporations, associations, or aggregations of underwriters, doing fire insurance business in the State of Alabama shall pay to the superintendent of insurance on or before the first day of March annually, in addition to the taxes now required by law to be paid by such companies, associations, partnerships, firms or individuals, two-fifths of one per cent of the gross premium receipts, less return premiums of all such companies, firms, individuals, associations or partnerships on all business done in the State of Alabama during the year preceding, to be included in their annual statement under oath to the bureau of insurance for the fiscal year ending December 31st, in case such company, association, firm, partnership, or aggregation of underwriters is now required by law to make such annual report, or does make such annual report.

Schedule 160.20. Every such company, firm, partnership, association, body of individuals acting as underwriters, or insuring each other, no matter how or under what form the business of fire insurance is done, shall annually report to the Superintendent of Insurance the gross premiums received for the year, or portion of the year preceding, and shall, on or before the first day of March of each year pay to the Superintendent of Insurance two-fifths of one per cent of such gross premiums receipts, less return premiums, or such amount as may be assessed, not exceeding two-fifths of one per cent of such gross premium receipts, less return premiums, as hereinafter provided.

Schedule 160.21. The Superintendent of Insurance shall certify the money so received into the State Treasury as a special fund for the maintenance of said office of State Fire Marshal, and the expenses incident thereto. Any portion of the said fund remaining unexpended on January 1st next after the end of any fiscal year shall be covered into the General Fund of the State Treasury.

Schedule 160.22. Every company, firm, co-partnership, association or aggregation of individuals or body of persons insuring each other, or their agents, representatives, or attorneys in fact, who shall refuse or neglect to comply with the requirements of Schedules 160.19 and 160.20 of this Chapter, shall be subject to a penalty of not less than one hundred dollars nor exceeding five hundred dollars, recoverable in an action of debt at the suit of the Attorney General, Superintendent of Insurance, or Solicitor of the county in which the principal office of the firm, association, corporation,

individual or co-partnership is situated, and if such violation is by a company, association, co-partnership, or aggregation of individuals licensed to do business in the State of Alabama, such license may be revoked by the Superintendent of Insurance, and penalties recovered under the provisions of this Chapter shall be paid into the county treasury of the county in which such recovery is had. All civil actions by the State or any subdivisions thereof for the recovery of amounts claimed for licenses, franchise taxes or other taxes levied under Schedules 91 and 92 of Section 348 of this Act shall be commenced within Six (6) months after the severance of the Coal and/or Iron Ore, and/or the removal thereof from the mine, and unless commenced within such period of Six (6) months shall be forever barred.

## ARTICLE XIV.

### Chapter 1.

#### GENERAL PROVISIONS.

Section 349. When a person has obtained a license to engage in or carry on any business, employment or profession at any definite place in the county or city in Alabama, and desires to remove to any other place within same county or city where license was granted and wishes his license altered accordingly, the Probate Judge who originally issued such license shall make such alteration which alteration shall be shown on the license records of the Probate Judge's office. Provided, that no license shall be altered to change a place of business to a location requiring a higher license than originally paid.

Section 350. Before any person, firm, or corporation shall engage in or carry on any business or do any act for which a license by law is required, he, they or it, except as otherwise provided, shall pay to the Judge of Probate of the County in which it is proposed to engage in or carry on such business or do such act, the amount required for such license, and shall comply with all the other requirements of this Act; and upon the payment of such amount and a fee of fifty cents to the Probate Judge for the issuance of such license and all costs and fees and penalties which shall have accrued, or which such person, firm or corporation shall have become liable in any proceedings commenced for the collection of such license, or to enforce payment thereof, and upon compliance with all other provisions of this Act by the applicant, such judge shall issue the license countersigned by him, in the form and on the blank to be furnished to him by the State Comptroller, which shall set forth and specify the name of the person, firm or corporation applying therefor, the business or act which it is pro-

posed to carry on or do thereunder, the name of the street or location where it is proposed to carry on the same, if such location shall be in a city or town and have a street number, and if not, then the location and amount paid for such license, and the time for which it is issued; and if the license is for a peddler it shall state whether he proposes to travel on foot or on horseback or on wagon or motor vehicle; and such license shall not be transferable except as otherwise provided herein, nor shall it entitle the holder thereof to carry on any other business or do any other act than that named therein. In case it should become necessary to remove any business for which a license is required by this section, from one location to another location in the same county, and such business be continued as the same kind and character and by the same person or firm as that carried on at the former location, another license shall not be required for such business for the same license year. (a) Whenever a license is levied in this Act, there shall be collected both a State and County license for each place of business, except as specifically otherwise provided. (b) There is also hereby levied for the use of each county in the State a license or privilege tax upon each person, firm or corporation engaged in, or who shall carry on any of the occupations, business, professions, or callings, or shall exercise any privilege or do any act for which a license is charged by the State, of fifty per cent of the State license or privilege tax, except as herein otherwise provided.

Section 351. Any person who shall knowingly make any false affidavit or certificate in connection with the ordering or procuring of a license to carry on any business or do anything in this State for which a license is required, shall be guilty of a misdemeanor and upon conviction, when the offense is not otherwise specifically provided for, shall be fined not less than one hundred dollars (\$100.00), not more than one thousand dollars (\$1,000.00), and at the discretion of the court, may be sentenced to hard labor for the county not to exceed six months, as additional punishment.

Section 352. (a) It shall be unlawful for any person, firm or corporation to engage in or carry on any business, or do any act for which a license is required now or may hereafter be by law, without having first paid for and taken out a license therefor in the manner in this Act provided. Any person who is convicted of failing to take out and pay for the license required shall be fined not less than the amounts of all licenses required of him, and if convicted for refusing to take out the license shall on conviction, be fined not less than the amount of the State and county license due by him and not more than one hundred dollars (\$100.00) in addition thereto, and may be sentenced to hard labor for the county for not more than six months; all fines to be paid in money, and when collected, two-thirds shall be paid to the State and one-

third to the county. (b) No person shall be allowed the privilege of selling throughout the State under one license except by special provisions of law.

Section 353. The State Tax Commission is hereby authorized and empowered to appoint a License Inspector for each County, provided that the same person may be appointed for more than one County. It shall be the duty of the License Inspector to scrutinize the records and stubs kept in the office of the Probate Judge, and also to examine the license records of each city or town located in the county or counties of which he has been appointed License Inspector and if it shall be reported to any License Inspector or come to his knowledge that any person, persons, firms or corporations have failed or refused to take out license for a business or occupation for which a license is required by the State, or have failed or refused to take out license for operating any motor vehicle or trailer for which license is required by law, the License Inspector shall thereupon cite such delinquent to appear before the License Inspector at the courthouse of the County in which such citation is issued and show cause why the license or privilege tax required by law has not been paid, and at the same time shall file with the Probate Judge of the County a copy of such citation showing service on the delinquent. (a) If the License Inspector shall discover any motor vehicle being operated without a proper or legal license, he shall cite the operator of the motor vehicle, and in filing copy of such citation with the Probate Judge he shall show on such citation the particular motor vehicle operated without legal license, as well as the operator thereof. (b) The Judge of Probate must in all cases in addition to the other penalties required to be collected by him, collect the citation fee, if any, due the License Inspector before issuing any license, and in case of motor vehicle where a license is taken out in the name of person not cited the citation fee shall be collected if citation filed shows the motor number of such vehicle. When any license is due the License Inspector shall cause the delinquent to appear before the Probate Judge of the County and take out the same, but such Probate Judge shall not have the authority to determine the liability of such delinquent for such license and shall in each case issue a license to the applicant upon the payment by him of the amount or amounts prescribed by this Act. If such delinquent shall fail or refuse to take out license, the License Inspector shall institute or cause to be instituted criminal proceedings against such delinquent before any Court having jurisdiction of such offense. In case of emergency the License Inspector must commence the criminal proceedings in the first place. (c) All licenses levied by this Act except as otherwise provided shall be due and payable as of October first of each year and shall be delinquent November first thereafter. Where any

license issuable by the Probate Judge or Commissioner of License shall be delinquent, the same shall be subject to a penalty of 15 per cent of the amount of the license, which penalty must be collected by the Probate Judge or Commissioner of Licenses when the license is taken out together with interest at 6% from the date of delinquency. (d) It shall be unlawful for any Probate Judge or other officer to fail to collect such penalties when issuing such license. (e) The Probate Judge in remitting such penalties shall file report with the Comptroller and with the State Tax Commission showing the amount of such penalties collected, from whom, and for what, the amounts paid to the License Inspector and the amount remitted, provided that in counties where the License Inspector is payable on a salary basis all fees and penalties shall be paid into the State Treasury. (f) If a criminal prosecution shall be commenced either by affidavit and warrant, or information or indictment, the License Inspector shall be paid fifteen per cent of the fine or penalty thereafter imposed in the case. All costs and penalties to be paid in money. The residue shall be paid, two-thirds, which shall be paid into the State Treasury, and one-third shall be paid to the County. (g) Such License Inspector shall before entering upon his duties be required to enter into a bond in a sum to be fixed by the State Tax Commission, payable to the State of Alabama conditioned as bonds of other State officers. License Inspectors are authorized to appoint deputies, and the act of such deputies shall be recognized as his acts, and he shall be responsible for the same. Such deputies shall receive no compensation for their services out of the State or county revenue, except in cases as otherwise provided in this Act. All citations to delinquents shall be served by any lawful officer, or by the License Inspector, or his deputy, who shall be allowed as a fee one dollar and fifty cents (\$1.50) for each citation served, to be taxed against the delinquent. License Inspectors shall have the same power to arrest persons violating the revenue laws of the State as is now vested in the sheriffs of the State, and shall receive the same fees for such service. The State Tax Commission shall keep a record by counties in which, each month, it shall be entered the number of licenses issued by the Probate Judge for each and every business or occupation for which a State license tax is required, and such record may be compared each month with the number of licenses issued by cities and towns for the same business or occupation. The License Inspector shall be required to report to the State Tax Commission the reason for the failure to collect any licenses due the State which may be evidenced by the comparison of the report of the Judge of Probate and the report made of licenses issued by cities or towns. (h) It shall be the duty of the Court of County Commissioners or other governing body of the several counties to supply the License Inspector with necessary citation blanks and other necessary

forms to be paid for by the county. (i) In counties of over two hundred thousand population, the State Tax Commission shall fix the compensation of License Inspectors and shall at the time of appointment and annually thereafter, fix the compensation and allowance for expenses of the License Inspector for such County. All commissions and fees which would be payable to the License Inspector shall be paid by the Probate Judge or Commissioner of Licenses into the State Treasury. (j) The salary of such License Inspector and the expenses of his office shall be paid by warrant of the State Comptroller upon sworn itemized account filed monthly by such License Inspector and approved by the State Tax Commission.

Section 354. Every license granting authority to engage in or exercise any business, employment, or profession, unless expressly authorized elsewhere or otherwise, shall designate the place of such business, employment or profession at some specified house or other definite place within the county of the Probate Judge granting it. Engaging in or exercising any such license, business, employment, or profession elsewhere than at such house or definite place, unless expressly authorized elsewhere or otherwise by law, shall be held to be without license. A license which does not specify such house or definite place where business, employment or profession is limited thereto by law, shall be void.

Section 355. If the law annexes a penalty for each or every violation of its provisions, or for each separate offense, it shall be lawful to hold that each day's continuance in the exercise of any business, employment, or profession, for which a license is required, constitutes a separate offense.

Section 356. Where any person, firm or corporation is engaged in more than one business which is made by the provisions of law subject to taxation, such incorporated company or person shall pay the tax provided by law on each branch of the business.

Section 357. Wherever in this Act two or more licenses on the same business or occupation are required, it is hereby declared to be the intention of the Legislature that all such licenses as are herein levied shall be collected without credit or offset, except where specific provision is made therefor.

Section 358. (a) Every license shall be held to confer a personal privilege to transact the business, employment or profession which may be the subject of the license, and shall not be exercised except by the person, firm, or corporation licensed, unless specifically authorized by law to do so. (b) A business or privilege for which such license is issued is, under actual sale, transferred to a new ownership in which case a transfer of license may be effected by application to the Probate Judge originally issuing such license and the payment of a fee of fifty cents.

Section 359. In all cases where the amount to be paid for license depends upon the amount of capital invested, or the value of the goods or stock, or the amount of sales, or receipts, or any other fact or condition hereinbefore recited, it shall be the duty of the person applying for such license to render to the Judge of Probate a sworn statement of the amount of the capital invested, of the value of the goods, or stock, or amount of sales or receipts, and to make under oath such further proof or affidavit as may be required by the Judge of Probate to determine the character of the license, and the amount to be paid for the same.

Section 360. Whenever this Act fixes a license for a business or occupation which is located without the corporate limits of an incorporated municipality but within a fixed distance of such municipality and fixes the amount of the license by the population of such municipality, in the event there is more than one municipality within such distance of the location of such business then, in that event, the amount of the license shall be that which is provided for the largest municipality.

Section 361. Any person who acts as agent for any person, firm or corporation liable to the payment of a license or privilege tax, without said license or privilege tax having been paid, shall on conviction be fined in a sum equal to the State and county license, and not more than one hundred dollars (\$100.00) in addition thereto, and may also be sentenced to hard labor for the county for not more than six months.

Section 362. It shall be the duty of the State Comptroller to prepare and have printed suitable forms of licenses, and as often as need be to furnish to the several probate judges blank licenses signed by him sufficient for the probable wants of their respective counties, taking their receipts for the same. Each such blank shall have a stub attached thereto, on which shall be printed such matter as the Comptroller may prescribe, with appropriate blank spaces to be filled in by the Judge of Probate upon the issuance of any license. The Comptroller shall take and file in his office a proper receipt from the Probate Judge for the blank licenses furnished him.

Section 363. Upon the issuance of any license the Judge of Probate must, before detaching the license from the stub, fill up the blank spaces in the stub to correspond in all respects with the license as issued, and sign his name thereto.

Section 364. The Judge of Probate shall keep in a book prepared for that purpose an accurate account of all licenses received by him from the State Comptroller, and of the disposition made of them, and of all money received from the licenses issued by him, and make report thereof to the State Comptroller within ten days after the expiration of the fiscal year, at which time he shall return to the State Comptroller all unused licenses and stubs, or account

to the State Comptroller for all unused licenses, and shall also return to the State Comptroller the stubs of all licenses issued by him, and the Judge of Probate shall on demand of the State Comptroller, at any time, exhibit to him or to any agent appointed by the State Comptroller for that purpose, such license record and the original of all licenses then remaining in his hands, and all stubs of licenses issued.

Section 365. Within ten days after the end of each month, the Judge of Probate must remit to the State Treasurer at the expense of the State, all money received by him for license belonging to the State, and pay to the County Treasurer all the money received by him for licenses belonging to the County, and within the same time the Judge of Probate shall forward to the State Comptroller and to the State Tax Commission each certified list of all licenses issued by him, stating thereon for what business issued, amount collected for each license, from whom collected, and the date of such collection; and if no licenses have been issued, he shall report that fact. The Judge of Probate shall be entitled to receive two and one-half per cent of the amount of money collected for licenses due the State, which he may deduct from his remittance to the State Treasurer, and he shall be entitled to the same amount as compensation for collecting licenses due the County, which amount he may deduct from the payment made by him to the County Treasurer, but he shall not be allowed any commission on any money not remitted by him within ten days from the end of the month. If the Judge of Probate fails to comply with the provisions of this Section within five days after the date on which he is required to make such report, and to remit the money collected by him, the Comptroller shall forthwith report the fact to the Governor, who shall cite such Judge of Probate to show why he has not made report of the list of licenses and paid over the amount collected by him as required by law, and if such Judge of Probate fails to show sufficient cause for such failure, the Governor shall direct the Attorney General to institute impeachment proceedings against him before the Supreme Court.

Section 366. Any person who through a mistake or error on the part of the Judge of Probate has paid to the Judge of Probate money that was not due from him for such license, or by such mistake has paid to the Judge of Probate for such license an amount in excess of that required by law for the business to be carried on by such person under the license such person shall be entitled to have refunded less commission retained by Probate Judge to him the amount in either event so erroneously collected by the Judge of Probate, and the provisions of this Section shall apply only to cases when application for refund is made within one year from date such license is alleged erroneously to have been paid.



Section 367. On application of any such person, his executor, administrator, or assigns, the Judge of Probate for the County in which such license was taken out shall proceed to ascertain the amount due such applicant under the provisions of the preceding section, and shall grant such certificate as will enable the State Comptroller and the Court of County Commissioners to draw his warrant, or their order, respectively, and such warrant or order shall be paid out of any monies in the State Treasury, or the County Treasury not otherwise appropriated.

Section 368. Unless otherwise provided, if any business licensed by this Act shall commence after the first day of April in any year, the amount of the license or privilege tax shall be one-half of the year's license or privilege tax. In all other cases the license shall be taken out for the full term of one year, unless a shorter term is fixed by the provisions of this Act. In all cases where the amount of license is rated according to the population of the town, city or county, the population of such town, city or county as fixed by the last preceding United States Census shall govern.

Section 368½.—The exceptions and exemptions from license or privilege taxes levied by this Act which are granted by this Act, are hereby declared to be exclusive, and any laws or parts of laws general, local or special, granting or attempting to grant any exceptions or exemptions, except as specifically granted herein are specifically repealed.

Section 369. Except as otherwise provided, all licenses or privileges payable hereunder shall be due on October first of each year and shall be for one year ending September 30th following, and shall be delinquent on the first day of November of each year.

Section 370. All laws now existing providing for the enforcement of license or privilege taxes shall apply to this Act except where such laws are in conflict with the provisions of this Act.

Section 370-A. The fees, compensations and earnings of the Judges of Probate allowed under the revenue laws of the State, shall not together with all other fees, compensations, allowances and earnings to them, exceed six thousand dollars net per annum, after the payment of the salaries for clerks, typists, stenographers and other office expenses in Counties where the Judge of Probate is not paid a fixed salary; and the expenses of the office in such Counties for Clerks, typists, stenographers and other expenses shall not exceed in counties having a population according to the Federal Census as follows: 10 to 30 thousand—\$300.00 per month; 30 to 40 thousand—\$450.00 per month; 40 to 50 thousand—\$750.00 per month; 50 to 85 thousand—\$850.00 per month; 85 to 110 thousand—\$1,325.00 per month; 110 to 125 thousand—\$1,500.00 per month; 125 to 500 thousand—\$3,000 per month; Provided, however, in any county where the Judge of Probate does not

act as Chairman of the Board of County Commissioners, or such other like governing body, the Board of County Commissioners or such other like governing body, may reduce the salaries for clerks, typists, stenographers and other office expenses, but not to exceed fifty percent of the Schedule set out herein.

Section 370-B. In such Counties where the earnings from all sources exceed the expenses and compensation to the Judge of Probate allowed in the above section, the excess thereof shall not accrue to the Judge of Probate but shall accrue to the General Fund of the County, and shall by the Judge of Probate be paid over to the County Treasurer and by him covered into the General Fund of the County.

## ARTICLE XIV.

### CHAPTER 2.

#### LIEN FOR TAXES.

Section 371. LIEN FOR TAXES. (a) If any person liable to pay any tax, other than ad valorem taxes, neglects or refuses to pay the same the amount (including any interest, penalty, additional amount, or addition to such tax, together with any costs which may accrue in addition thereto) shall be a lien in favor of the State of Alabama, upon all property, the rights to property, real or personal belonging to such person. Unless another date is specifically fixed by law, the lien shall arise at the time the assessment list, return therefor, or the payment thereof, as the case may be, was due to have been filed with or made to the State Tax Commission or other agency of the State or County, and shall continue until the liability for such amount is satisfied or becomes unenforceable by reason of the lapse of time. (b) Such lien shall not be valid against any mortgagees, purchaser or judgment creditor until notice thereof has been filed by the State Tax Commission, or other agency of the State, or county in the office of the Judge of Probate of the County in which such property real or personal is located. (c) The State Tax Commission or other agency of the State or county with whom the assessment list, return, or to whom the payment of the tax was due to have been made or paid, may file in the office of the judge of probate of any county in this State a certificate which shall show the agency of the State filing the same, the amount and nature of the tax for which a lien is claimed (including any interest, penalty, additional amount, or addition to such tax, together with any costs that may have accrued in addition thereto) the names of all persons against whose property a lien for such tax is claimed, and the date thereof. Any error in the certificate of the amount shall not invalidate the

lien for the amount actually due. (d) Such certificate shall be indexed and recorded under the same provision of law of this State relating to the filing and recording of certificates of judgment, without cost, but no acknowledgment or probate of such certificate shall be required.

Section 372. From and after the first day of October of each year, when property becomes assessable the State shall have a lien upon each and every piece or parcel of property owned by any taxpayer for the payment of all taxes which may be assessed against him and upon each piece and parcel of property real or personal assessed to owner unknown which lien shall continue until such taxes are paid, and the county shall have a like lien thereon for the payment of the taxes which may be assessed by it; and if such property is within the limits of a municipal corporation such municipal corporation shall have a like lien thereon for the payment of the taxes which may be assessed by it. These liens shall be superior to all other liens and shall exist in the order named and each of such liens may be enforced and foreclosed by sale for taxes as provided in this Act, or as other liens upon property are enforced.

Section 373. When a taxpayer makes a general assignment of his property for the payment of his debts or is declared a bankrupt, or when dead and his estate is or becomes insolvent, and unpaid taxes assessed against him or against his estate shall be a preferred claim, and shall be paid by the assignee, trustee or personal representative out of the first money received by him belongnig to the trust or estate.

Section 374. The exemptions from ad valorem taxation granted in this Act are hereby declared to be exclusive and any laws or parts of laws, general, special or local granting or attempting to grant any exemptions from ad valorem taxation, except as in this Act provided, are hereby specifically repealed.

Section 375. (a) Whenever in this Act a tax is payable to the State Tax Commission, or to the Judge of Probate or to any other officer on a monthly, quarterly or other periodic basis, and reports of gross receipts, gross loans, gross sales, the gross tonnage, capital invested, daily, monthly, quarterly, or other period for computing capacity, or other similar reports are required to be made, except as otherwise specifically provided or when not in conflict with such specific provisions, such reports shall show substantially the following: (1) the name of the person, firm or corporation; (2) the president or managing officer; (3) the principal office or place of business; (4) its principal office or place of business within this State; (5) the total amount of gross sales, gross receipts, gross loans, gross tonnage, capital invested, daily, monthly, quarterly or other period of capacity applicable to the computation of a tax on its business, or other matter to be re-

ported; (6) where the basis of the license is capital invested, the license shall be based on the full capital employed, and such report shall show the value as carried on the books of the person, firm, or corporation; (7) any other information, general or special required by the State Tax Commission, or the probate judge or other collecting officer; (8) such report shall be made under oath by an officer or other person familiar with the facts. (b) In all cases where a tax is due as shown by said report, payment shall be remitted to the State Tax Commission. If payment is made by check, draft or post office or other money order, such check, draft or money order shall be made payable to the State Treasurer. Provided no payment shall be considered made until the money is actually received by the State. (c) Every person liable to a tax herein levied and required to make such report shall at all times keep an accurate set of books in this State, showing the nature and details of the business and which shall be sufficient to fully disclose the information necessary to determine the correct amount of any tax levied by this Act. Such books shall be kept for a period of five years after the due date of any tax levied by this Act. Such books shall at all times be available and open to the examination, inspection and audit of the State Tax Commission or its duly authorized agents or accountants or persons employed by it and so authorized by it. (d) Every person failing to keep such books shall be guilty of a misdemeanor and shall upon conviction be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) for each month or fraction thereof which he fails to keep such books or records. (e) Every person failing or refusing to permit the State Tax Commission or its duly authorized agents or accountants to inspect, examine or audit such books shall be guilty of a misdemeanor and shall, upon conviction, be fined not less than five dollars (\$5.00) nor more than five hundred dollars (\$500.00) for each day's failure or refusal. Provided each day's failure or refusal after demand shall constitute a separate offense. (f) Any person failing to make any report or reports required by this Act before the expiration of the time required for making such report or reports, unless the time has been extended by the State Tax Commission, shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars (\$10.00) for the first offense and not more than fifty dollars, and not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) for each subsequent offense. (g) Any person failing to make the reports herein required within the time required by law, shall be subject to a penalty of fifteen per cent of the amount of the tax found to be due which shall be assessed and collected as a part of the tax. (h) If any person be delinquent in the payment of any

tax herein levied for more than thirty days after the due date thereof, there shall be collected a penalty of one per cent per month for each month or fraction thereof that such tax remains delinquent. (i) Whenever in this Act any act or omission is declared to be a misdemeanor, the court, upon conviction, may in addition to the foregoing penalties, sentence the defendant to hard labor or imprisonment in the county jail for a period not exceeding twelve months. Provided further that where a minimum fine is provided herein no judge or court shall have the power or right to suspend the collection of such fine for a period greater than thirty days, and if such fine be not paid within thirty days, it shall be the duty of such court to have such person brought before him and shall sentence such defendant to hard labor for the fine and costs as provided in other cases.

Section 376. When taxes are levied on the gross or net receipts of any person, company, corporation or association doing business in this State by any agent, such agent shall be personally liable for such taxes, and the Tax Collector may collect the same from such agent by garnishment or by the seizure and sale of any personal property belonging to him, as if such taxes were assessed against him.

Section 377. Whenever a corporation, either foreign or domestic, is in receivership or trusteeship, the provisions of this Act shall apply to the receiver or trustee thereof and such receiver or trustee shall be liable for any taxes to the same extent as the corporation would be if there were no receivership or trusteeship. Such receiver or trustee shall make all reports as herein required and shall be subject to all penalties as would be the corporation.

Section 378. In all counties where State officials are paid on a salary basis instead of a fee basis, all fees required under the terms of this Act to be paid to or collected by such officials shall, by said officials be paid to the treasurer of said county or to such official performing the duties of county treasurer, except where otherwise provided.

Section 379. Whenever any taxpayer claims that any tax, except ad valorem taxes, herein levied, as fixed by the collecting officer is excessive or is invalid either in whole or in part, the taxpayer shall pay such tax under protest, and the officer receiving the same shall note on the receipt that such tax was paid under protest. Within sixty days after such payment under protest, the taxpayer shall commence suit against the officer for the recovery of such amount as is claimed to be excessive or invalid, and unless such suit is commenced within such period of sixty days from such payment, such payment shall be deemed voluntary. Upon hearing and judgment the Court shall determine what amount so paid is excessive or illegal, and shall order the same to be repaid by the State or its agen-

cies receiving the same in the same manner as is provided in cases of appeals from the State Tax Commission, and such amount shall be refunded in the same manner.

Section 380. Whenever any money for taxes paid to any officer authorized to receive or collect same is paid under protest, such officer shall distribute to the various governmental agencies the proportion due such governmental agencies in the manner and at the times provided in this Act, and at the time of such distribution, shall note the fact that such payment was made under protest, and the Treasurer or custodian of funds of such governmental agency, shall in giving his receipt therefor, note that such tax was paid under protest. Any Tax Collector or other officer authorized to receive and collect taxes noting such fact, shall not be personally liable for such payments should such taxes ultimately be held illegal or excessive.

Section 381. In any suit against any officer for the refund of taxes or other suit involving the revenue laws, the Attorney General or the Solicitor, may at his direction, if in his opinion the best interests of the State require it, with or without the consent of such officer appear for him, and shall be authorized to take an appeal, and no bond or security for costs shall be required.

Section 382. Any court costs taxed against the State, shall be paid by the State, and the various taxing subdivisions thereof in proportion to the amount of taxes levied by each. The sworn certificate of the Clerk or Register approved by the State Comptroller shall be authority for the issuance of any payment of warrants therefor by the proper officers of each taxing authority, and shall be treated as a preferred claim.

Section 383. Whenever any execution is issued by the State Tax Commission for the collection of any taxes assessed by it, such execution duly attested by the Circuit Clerk shall be sufficient warrant to the officer to whom directed to levy on the property of the person against whom directed, and the Sheriff or other officer shall forthwith execute such writ without demanding or requiring any indemnifying bond or other protective obligation, but the writ issued by the State Tax Commission under authority of law for the collection of taxes due the State, shall be sufficient defense, to any suit for damages, on any ground other than the wilful, wanton or malicious conduct of the officer making the levy.

Section 384. Any person required by this Act to permit the inspection of its books by any taxing authority, who after demand, refuses to permit such inspection, shall be guilty of a misdemeanor and shall on conviction be fined not less than five dollars nor more than \$500.00 per day for each day's refusal or failure after demand, and no Court without the special approval of the State Tax Commission filed in the cause shall have the right to suspend or reduce such fine.

Section 385. The provisions of the three sections next preceding are cumulative and in addition to any special provisions given by this Act, and shall not be construed to be in derogation of any special provision.

Section 386. In any suit against any Tax Assessor, Tax Collector, Judge of Probate or other officer charged with the performance of any duties under this Act, and his sureties, or either, for failure to pay over any money collected by him for the State or to perform any other duty required of him by law, a copy of any bond, record, book, paper, contract, return or other document, or of the official statement of any account between him and the State in the office of the State Comptroller, State Treasurer, State Land Commissioner, or State Tax Commission, properly certified by such officer, if the original is in his office, under seal of the office, shall be received as evidence in any case in which the original would be competent, unless the defendant shall deny under oath that he made or executed such original.

Section 387. Upon a verdict being rendered in favor of the State in any suit brought by the State against any officer charged with the collection of any revenue for the State, and his sureties or either, for the recovery of any such revenue collected by him, a judgment must be rendered for the amount of such verdict, and twenty per centum thereon.

Section 388. Any Tax Assessor or Deputy Tax Assessor who returns the tax list of any taxpayer as having been sworn to by such taxpayer, when in fact it was not sworn to, is guilty of a misdemeanor. This section must be given in a special charge to the grand jury, and it is their duty, whenever the evidence justifies it, to return an indictment against such Tax Assessor or deputy assessor.

Section 389. Any president or cashier of any bank or banking association who wilfully fails or refuses to make out, swear to and deliver to the Tax Assessor the statement required by law, within the time prescribed, must on conviction, be fined not less than two hundred dollars (\$200.00) and must also be sentenced to hard labor for the county for not less than three months.

Section 390. It shall be unlawful for any member of the State Tax Commission or Tax Assessor, or any employee or deputy or agent of either to act as agent or attorney for any taxpayer in the matters of assessment of property for taxation and any such person who violates the provisions of this section shall be guilty of a misdemeanor and shall be fined in a sum not greater than one hundred dollars (\$100.00), and may be sentenced to hard labor for the county for not more than three months.

Section 391. Any revenue officer of the State who refuses to allow the State Tax Commission, or the agents or deputies thereof,

full and free access to all books and records belonging to or pertaining to his office, shall be guilty of a misdemeanor, and on conviction shall be fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00).

Section 392. Any officer on whom any duty is imposed by the revenue law, who fails or neglects to perform such duty, if there is no other punishment provided for such failure or neglect must on conviction, be fined not less than twenty dollars (\$20.00) nor more than one thousand dollars (\$1,000.00).

Section 393. Any probate judge, clerk of a court of record, register in chancery, sheriff, coroner, tax collector, county treasurer, trustee of public schools, notary public, justice of the peace, constable or other public officer who knowingly converts to his own use, or permits another to use any of the revenue of the State or of any county or municipality thereof, or any money paid into his office or received by him in his official capacity, is liable to indictment, and on conviction must be punished as if he had stolen it.

Section 394. When any sheriff or other officer shall sell any property under execution or other process, or under any decree, judgment, or order of any court, it shall be his duty to ascertain what taxes are a lien upon such property and upon a sale thereof, to first apply the proceeds of such sale to the payment of such taxes.

Section 395. Any Tax Collector who fails to make return and forward the tax money in his hands, from time to time, to the proper authorities, as provided by law, except for good cause, is guilty of embezzlement of public funds, and is liable, on conviction, to a fine of not exceeding ten thousand dollars (\$10,000.00) and imprisonment in the penitentiary not exceeding two years.

Section 396. The failure of any tax collector to pay over or produce any money collected by him either as State, County or municipal taxes, after demand by the State or county or municipal treasurer, or other authority for receiving money belonging to the State, county or municipality, shall be prima facie evidence against such tax collector of embezzlement by him.

Section 397. Any tax collector or other person engaged in collecting the revenues of the State who buys, sells or otherwise trades in State warrants, State certificates or other securities of the State shall be guilty of a misdemeanor.

Section 398. Any person who fraudulently obtains from the State Comptroller under the provisions of this Act any duplicate warrants upon the Treasury of the State, or who shall with intent to defraud obtain any warrants to which he is not entitled must on conviction be punished as if he had stolen the amount specified in the warrant.

Section 399. The holder of any lien on real or personal property may pay the tax thereon with interest and penalties and upon



such payment shall be subrogated to the lien of the State, county or municipality and the sum so paid shall bear legal interest from the date of payment and may be collected in the same manner as the original claim of the lien holder.

Section 400. When any tax collector fails to collect any taxes and the same are charged against him on settlement with the State or County, the collector shall be subrogated to the lien of the State, and shall have a lien upon the real and personal property of the person, firm or corporation against whom such taxes were assessed, if same were properly assessed against such person, firm or corporation, for repayment to him of such money, which lien may be enforced in favor of such tax collector in the same manner that the liens for taxes in favor of the State and County may be enforced, at any time within twelve months after same are charged against such tax collector. The owner, his heirs or personal representatives, or any person having an interest therein, or in any part thereof, legal or equitable, in severalty or as tenant in common, including a judgment creditor, mortgagee, or other creditor having a lien thereon, or on any part thereof, shall have the same right to redeem real estate sold to satisfy a tax collector's lien and may redeem in the same manner as is provided by law for the redemption of real estate sold to satisfy the lien of the state for taxes.

Section 401. All proceedings for the assessment or collection of any taxes now pending before or by any board or officer whose authority, power, or jurisdiction is terminated by this Act, shall be and is immediately transferred from such other officer, court or board, to the officer, court or board having authority and jurisdiction under this Act and shall be prosecuted and proceeded with as if originally commenced by or before such board or officers except cases pending in some court of competent jurisdiction; such cases shall remain in such courts from final determination.

Section 402. All officers provided for in this Act may be impeached in the same manner and for the same cause provided for in the Constitution of the State of Alabama or as provided for in Chapter 159 of the Code of Alabama (1923) and may be tried as therein provided for other officers.

Section 403. Whenever and wherever a notice is required by law to be given by the State Tax Commission, the board of review, the tax assessor, or the collector, relating to the assessment and collection of taxes, and the method of giving such notice is not prescribed, then such notice shall be given by registered mail, return receipt demanded, addressed to the last known address of the taxpayer.

Section 404. Justices of the Peace shall have jurisdiction concurrently with the county courts when violations of the revenue laws are committed within the territorial jurisdiction of a jus-

tice of the peace in any county in the State of Alabama and where such violations are made a misdemeanor under the revenue laws.

Section 405. All revenue collected under the provisions of Section 142, Section 143, Section 145, Section 147, Section 149, and Schedule 91, Schedule 92 of Article XIII; Chapter 7, Article XIII and Chapter 3, Article XIII of this Act, shall be paid to the State Tax Commission of the State of Alabama, by check or draft made payable to the State Treasurer and shall be set apart as a trust fund for educational purposes only, to be designated as "The Alabama Special Educational Trust Fund" and shall be kept separate and apart from all other funds in the State Treasury and shall be paid out by the State Treasurer on lawful appropriations made especially from such funds by the Legislature of Alabama, for educational purposes.

Section 406. The State Tax Commission shall have compiled, properly indexed and printed in pamphlet form two thousand copies of this Act, together with all other laws relating to the revenue of the State, and relating to the assessment of the State, and county ad valorem, franchise, license and privilege taxes, and relating to the duties of the several State and county officials in the assessment and collection of such taxes. The cost of compiling and indexing shall not exceed two thousand dollars, which amount, or as much thereof as may be necessary is hereby appropriated for this purpose and the State Comptroller shall issue a warrant for the same upon a certificate of the State Tax Commission.

Section 407. Except as otherwise provided in this Act, all the provisions of this Act shall go into effect on the first day of October, 1935.

Section 408. That the provisions of this Act are severable and if any section or sections, paragraph or paragraphs, sentence or sentences, clause or clauses, phrase or phrases, word or words of this Act shall be held to be unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the same shall not affect or impair any of the remaining provisions, sections, paragraphs, sentences, clauses, phrases, and/or words of this Act. It is hereby declared to be the legislative intent that this Act and each section, paragraph, sentence, clause, phrase and word thereof would have been enacted had such unconstitutional section or sections, paragraph or paragraphs, sentence or sentences, clause or clauses, phrase or phrases, and word or words not been included herein.

Section 409. All tax returns, financial statements and information secured by the State Tax Commission officials or employees thereof for the purpose of arriving at the amount of ad valorem, franchise, income or license tax, shall be kept under lock

and key by the State Tax Commission, and any official or employee of the State Tax Commission who shall divulge the contents or permit the examination thereof except for the purpose of properly administering the tax laws of this State, or upon order of the Chairman of the State Tax Commission and except under the order of Court, or for information of the Legislature, shall be guilty of a misdemeanor and shall be subject to a fine of not more than fifty dollars and shall thereafter be ineligible to be an employee or agent of the State Tax Commission.

Section 410. The State Tax Commission, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is hereby authorized and empowered, by any member of the State Tax Commission and by any agent or employee of the State Tax Commission, including the field agents or auditors, designated by the State Tax Commission for that purpose, to examine any books, papers, records or memoranda bearing upon the matters required to be included in the return and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return.

Section 411. That all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, provided that all provisions of existing laws relating to taxation and revenue which are not in conflict with the provisions of this Act and which are not herein expressly repealed, are not hereby repealed.

Section 412. Nothing in this Act shall be construed to relieve any person from any tax liability, penalty or forfeiture incurred under laws existing before the effective dates of the provisions of this Act, and any provisions of any laws existing before the effective dates of the provisions of this Act, providing for the collection and enforcement of such tax liability, penalty or forfeiture shall, as to such tax liability, penalty or forfeiture, remain in full force and effect.

Approved July 10, 1935.

### “AN ACT

To amend an act of the Legislature of Alabama approved September 10th, 1927, Entitled ‘An Act to Provide A Code of Laws Authorizing and Governing The Issuance, Sale, Regulation, Funding, Refunding, Paying, and Retiring of Bonds of the Counties and Municipal Corporations, and to Repeal Sections 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2269, 2270, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 234, 235, 236, 237, 238, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265 and 266, Code of Alabama of 1923, and all other Laws or Parts of Laws In Conflict With This Act,’ as heretofore amended, by amending section 3, 6, 17, 51, 52, 56 and 61 thereof, and by adding thereto a new section designated Section 60-A, providing for the pledging of taxes and revenues, and maintaining of taxes and revenues so pledged, to the payment of principal of and interest on funding and refunding bonds issued under authority of said act as amended.”

#### *Be it Enacted by the Legislature of Alabama:*

Section 1.—That Section 3 of the Municipal Bond Code, being an Act of the Legislature of Alabama, approved September 10, 1927, entitled “An Act to provide a code of laws authorizing and governing the issuance, sale, regulation, funding, refunding, paying, and retiring of bonds of the counties and municipal corporations, and to repeal Section 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2269, 2270, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 234, 235, 236, 237, 238, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, and 266 Code of Alabama of 1923 and all other laws or parts of laws in conflict with this Act,” approved September 10, 1927 be and is hereby amended so as to read as follows: “Section 3.—PROVISIONS OF ACT ARE SEVERABLE.—The sections and provisions of this Act are severable and are not matters of mutual essential inducement, and it is the intention to confer the whole or any part of the powers herein provided for, and if any section or provision or part thereof shall for any reason be held to be unconstitutional, void or inoperative, it is the intention that the remaining sections and provisions and parts thereof shall remain in full force and effect.”

Section 2.—That Section 6 of said Act approved September 10, 1927, as heretofore amended, be and the same is hereby amended so as to read as follows: “Section 6.—OBJECTS AND PURPOSES FOR WHICH BONDS MAY BE ISSUED.—All municipalities shall have full and continuing power and authority within the limits of the Constitution now in effect or that may be hereafter provided, to issue and sell bonds (when such issue is author-

ized by an election as hereinafter provided, if such election is required by the Constitution, but without an election if an election is not so required) for the following named purposes, to-wit: 1. For the purpose of constructing, reconstructing, enlarging or extending public buildings, sewers, streets, alleys, bridges and public school houses and buildings, and of constructing or acquiring by purchase or otherwise water, electric light, electric power, and gas plants and systems, or any two or more such plants or systems combined, including transmission and distribution systems, and of constructing enlargements and extensions to any such plants or systems. 2. For the purchase of real estate necessary for any improvement authorized by law, or for the site for any building or improvement to be used for public purposes. 3. For extending, enlarging, improving, repairing or securing the more complete use of and enjoyment of any building or improvement owned, purchased or constructed by the municipality, for equipping and furnishing the same. 4. For the erection of crematories or garbage disposal plants or for the purpose of providing other means for the disposal of garbage and refuse matter. 5. For the construction of streets and sidewalks and for the repairing or improving of any street, or sidewalk or other public highway; for opening, widening and extending any street or public highways. 6. For purchasing or condemning any land necessary for street or highway purposes, and for improving the same by paying any portion of the cost of such improving. 7. For the erecting of infirmaries, hospitals, pesthouses, or for rebuilding, extending, enlarging or repairing same. 8. For erecting prisons, workhouses, police stations, houses of refuge and correction. 9. For erecting market houses and providing market places. 10. For erecting city or town halls and public offices; public schoolhouses and buildings to be used in connection with same; for the erection and establishment of public auditoriums, and other buildings for public meetings and for the purpose of rebuilding, extending, enlarging, repairing and equipping and furnishing the same. 11. For acquiring, providing or constructing waterworks, to supply water to such municipal corporations or to the inhabitants thereof, and for the purpose of repairing, improving, extending or enlarging such water works system. 12. For the purpose of repairing, improving and maintaining waterworks to supply water to the municipal corporations or the inhabitants thereof. 13. For acquiring, providing or constructing lighting plants for supplying light to the municipality or to the inhabitants thereof. 14. For the purpose of repairing, improving, and maintaining lighting plants for supplying light to the municipality or the inhabitants thereof. 15. For purchasing or providing grounds for cemeteries, or for enclosing, improving or embellishing the same; for building crematories and public burial vaults. 16. For the construction of

sanitary and storm water sewers or drains, sewerage plants, filtration beds, and for the purpose of acquiring land or right of way for such purposes. 17. For establishing free public libraries and reading rooms. 18. For the establishment of public baths. 19. For improving any water course or water front, for constructing docks, wharves, landings, levees and embankments within the limits of the municipality and for the purpose of protecting a city from the encroachments of streams and rivers. 20. For the payment of obligations arising from emergencies, resulting from epidemics or floods or other forces of nature. 21. For the purchasing or condemning of the necessary land for parks, boulevards and public places; for improving or completing the same, or for acquiring additional land for parks, boulevards or public places. 22. For constructing or repairing viaducts, bridges and culverts, and for purchasing or condemning land necessary therefor; for the purpose of constructing bridges or tunnels over or under any railroad track, or for the abolition of grade crossings, and for the purpose of paying for damage caused to abutting property owners by the construction of any one of the improvements named in this subdivision. 23. For erecting any building necessary for a fire department, for the purchase of fire engines, fire boats, or fire equipment; for constructing water towers, reservoirs and cisterns, or for paying the cost of placing underground the wires or other signal apparatus of any fire department. 24. For the purpose of providing for the payment of any obligations of any municipal corporation, whether arising from administration or from the acquisition of any property for public use or the construction of any improvement or otherwise, or whether said obligations shall have matured or not at the time of said issue. 25. For the payment of any deficiencies in the revenue of any municipal corporation; for the funding of floating debts; for the funding of interest on debts whether such debts are represented by bonds, notes, interest coupons, or other obligations; for the funding of such amount or portion of any judgment rendered against the municipality as represents either principal or interest or both principal and interest of any bonded or other indebtedness of the municipality, together with any unpaid interest then accrued on such amount or such portion of such judgment; and for such other purposes as may be authorized by law or by the charter of any municipal corporation. 26. For the purpose of providing any money or moneys deemed necessary by the governing body to provide for the administration of the city to the expiration of the fiscal year. 27. For constructing establishing or acquiring abattoirs and the necessary land upon which to operate same. 28. For the erection of public comfort stations. 29. For any other purpose for which it is authorized by law to expend money. 30. And in cities of one hun-

dred thousand population, or more, according to the last or any succeeding Federal census, for the payment of any existing or anticipated deficiencies in the revenues of the City Board of Education in such Cities respectively, by whatever name called; for the funding of floating debts of any such City Board of Education in any such city, and for such other school purposes as may be deemed necessary by such City Board of Education in any such city."

Section 3.—That Section 17 of said Act approved September 10, 1927, as heretofore amended, be and the same is hereby amended so as to read as follows: "Section 17.—INDEBTEDNESS REFUNDED OR FUNDED.—The governing body of any municipality may, without any election, issue bonds of the municipality for the purpose of refunding a like or greater face amount of the principal of any matured or unmatured bonds of such municipality then outstanding, whether the bonds to be refunded belong to one class or to two or more classes or to one issue or two or more issues, provided that no general obligation bond of a municipality having less than 6,000 population shall be combined with a limited obligation bond of such municipality under Section 2294 of the Code of Alabama, as amended, for refunding by a single refunding issue. The proceedings authorizing any refunding bonds shall clearly identify the bonds to be refunded thereby. Without limiting the generality of any of the foregoing, it is specifically declared that serial bonds shall be included in the classes and issues of bonds which may be refunded hereunder. Bonds which any municipality is legally obligated to pay, although not issued in the name of such municipality, shall be considered bonds of such municipality for the purposes of this section. The governing body of any municipality may without an election, issue bonds of the municipality (a) for the purpose of funding any unpaid interest then accrued on any matured or unmatured bonds of the municipality, and also (b) for the purpose of funding such amount or portion of any judgment rendered against the municipality as represents either principal or interest or both principal and interest of any bonded indebtedness of the municipality, together with any unpaid interest then accrued on such amount or such portion of such judgment; the bonds, the interest on which is to be funded or on which such judgment was rendered, may belong to one class or to two or more classes, or to one issue or to two or more issues. Any bonds issued under the authority of this section may be sold in the manner provided by Section 56 of this Act, or may be delivered in exchange for any evidence of indebtedness so funded or may be delivered to the holder of such indebtedness upon its extinguishment or cancellation and in full satisfaction thereof. The holders of all refunding and funding bonds issued under the provisions of this Act,

whether such bonds shall have been delivered in exchange for the indebtedness refunded or funded thereby, or shall have been sold and the proceeds thereof applied to the retirement of such indebtedness, shall be subrogated to all the rights and powers of the holders of such indebtedness, unless otherwise expressly provided in the ordinance or resolution authorizing the issuance of such refunding or funding bonds."

Section 4.—That Section 51 of said Act approved September 10, 1927, be and the same is hereby amended so as to read as follows: "Section 51.—PLACE OF PAYMENT OF BONDS.—All bonds may be made payable at such place or places within or without the State of Alabama as the proper governing body may designate."

Section 5.—That Section 52 of said Act approved September 10, 1927, as heretofore amended, be and the same is hereby amended so as to read as follows: "Section 52.—MATURITY OF BONDS.—All bonds issued under this Code, except bonds issued under Article IV hereof and except funding and refunding bonds, shall be payable in annual installments, the first of which shall be payable not more than three years after the date of the bonds, and the last within the period of usefulness of the improvement or property for which the bonds are issued as estimated under the provisions of Section 53 hereof. No such installment shall be more than twice as large as the smallest prior installment of the same issue. Funding or refunding bonds may be made payable at such time or times, not more than thirty years from the date thereof, as may be fixed in the proceedings authorizing their issuance, and they may be made redeemable at such price or prices and under such terms and conditions as may be set forth in such proceedings and briefly recited on the face of the bonds."

Section 6.—That Section 56 of said Act approved September 10, 1927, as heretofore amended, be and the same is hereby amended so as to read as follows: "Section 56.—ADVERTISEMENT AND SALE.—All bonds issued under this Code shall be sold to the highest bidder at public sale unless sold within thirty days after failure to receive any legally acceptable bid at a duly advertised public sale in accordance with this section. A public sale shall be either on sealed bids or at auction. The notice of a public sale shall state whether the sale is to be on sealed bids or at auction, and shall also state the amount of the bonds to be sold, the maturities thereof, the amount payable at each maturity, and either the rate of interest which the bonds are to bear, or that the bidders are invited to name the rate of interest in their bids, and shall also state the time and place of sale or for submitting sealed bids. Such notices shall be published once in each of two consecutive weeks in a newspaper published in the municipality issuing the bonds, or if there is no such newspaper, or if the sale is of county bonds,



in a newspaper published in the county issuing the bonds or in which such municipality is situated. The first of such two publications shall be not less than ten days before the last date for submitting bids, if the sale is on sealed bids, or the date of sale, if the sale is at auction, and if there is no newspaper meeting the above requirements the notice shall be posted at three public places in the county or municipality issuing the bonds for at least a like period of ten days. The governing body shall have the right to reject all bids. Nothing herein contained shall prevent the issue of bonds under Article IV hereof to the contractor in accordance with the provisions of that Article, and nothing herein contained shall prevent the issue of funding or refunding bonds in exchange for a like or greater amount of the interest then due or accrued on or the principal of indebtedness to be funded or refunded thereby, whether such indebtedness has then matured or shall thereafter mature, with the consent of the holders of such indebtedness to be exchanged, without the publication of notice or other advertisement; provided, however, that not more than 5% of the face value of funding or refunding bonds so exchanged shall be paid for making or securing the making of such exchange."

Section 7.—That said Act approved September 10th, 1927, as heretofore amended, be and the same is hereby further amended by adding thereto Section 60-A, which said Section 60-A shall read as follows: "Section 60-A.—In any case where funding or refunding bonds hereafter issued by a county or municipality bear interest during any part of their term at a rate or rates which is less than the rate borne by the bonds or other indebtedness the interest or principal of which is being funded or refunded, and in any case where funding or refunding bonds shall be issued to refund bonds which are secured by a mortgage, there may be pledged to the payment of the principal and interest of such funding or refunding bonds, all or any part or proportion of funds which may be derived from any one or more of the following sources and which shall not have theretofore been validly pledged or are not required by the Constitution to be devoted to other purposes, and which such county or municipality may at any time be authorized to levy or collect: (a) the proceeds of any property tax, (b) the proceeds of any license, privilege or occupational tax, excepting such license taxes as may be levied by municipalities for conducting business outside their corporate limits, (c) that portion of any license, privilege or occupational tax, levied under any general revenue law of the State heretofore or hereafter enacted which may be apportioned and paid to such municipality, and (d) the revenues of any waterworks, sewerage system, electric light and power plant, or any other utility maintained and operated by such municipality. The provisions making such pledge

shall have the force of contract between the county or the municipality and the holders of such funding or refunding bonds. No property tax thus pledged and no rate or charge for the service rendered by such utility shall be reduced or diminished to such an extent that the tax or revenue pledge will not be sufficient to meet the interest and the sinking fund or principal requirements of such funding or refunding bonds. Any tax or revenue so pledged shall constitute a trust fund or funds which shall be impressed with a lien in favor of the holders of the bonds to the payment of which such funds are pledged. In the event such county or municipality should pledge any revenues as authorized by this Section 60-A, the ordinance or resolution authorizing the issuance of such funding or refunding bonds may provide that such county or municipality shall not be required to levy the tax provided for in Section 60 of said Act of September 10th, 1927, as heretofore amended, but shall be required to levy only such property taxes, license, privilege or occupational taxes as may be so pledged under authority of this Section 60-A. Notwithstanding any contrary provisions of any general or local law, the ordinance or the resolution authorizing the issuance of any such funding or refunding bonds may contain provisions or covenants whereby, so long as any such funding or refunding bonds shall be outstanding, any license, privilege or occupational tax thus pledged shall be levied and collected in each year without reduction in the aggregate annual amount of such license, occupational or privilege taxes so pledged.

Section 8. That Section 61 of said Act approved September 10, 1927, be and the same is hereby amended so as to read as follows: "Section 61.—SINKING FUNDS.—All sinking funds provided for the retirement of bonds shall be invested in bonds of such subdivision, or in bonds of the United States of America, or in bonds of the State of Alabama, or in bonds of any county in the State of Alabama, or any municipal cooperation of the State of Alabama, or deposited in bank on interest; provided, however, that the proceedings authorizing any funding or refunding bonds may prohibit the investment of the sinking fund for such bonds and require that such sinking fund shall be used exclusively in the purchase for retirement, or in the redemption of such funding or refunding bonds. All sinking funds created by resolutions or ordinance heretofore adopted must be properly set aside each year in accordance with the resolution or ordinance providing for the same, and a report made thereof and filed with the Clerk of the municipality or with the Probate Judge of the county, as the case may be, showing in detail how said sinking fund is invested or deposited. All contracts now in effect for purchasing savings

certificates, under the law as it heretofore existed, shall continue as legal investments."

Section 9. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed.

Section 10. This Act shall take effect immediately upon its passage and approval by the Governor.

Approved July 17, 1935.

No. 196)

(H. 449—McDermott

### AN ACT

To provide for the validation of bonds, certificates of indebtedness and time warrants which mature more than one year from their respective dates, and of bonds or certificates payable solely from revenues, before their issuance by counties, cities, towns, villages, districts, or other political subdivisions of the State, and to prescribe the procedure in the Circuit Courts and in the Supreme Courts with respect thereto.

*Be it Enacted by the Legislature of Alabama:*

Section 1.—As used in this Act, the following words and terms shall have the following meanings: (a) The word "unit" shall mean and include every county, city, town, village, district, or other political subdivision in the State of Alabama. (b) The word "obligations" shall mean and include bonds, certificates of indebtedness and time warrants which mature more than one year from their respective dates, and bonds or certificates payable solely from revenues.

Section 2.—When any unit desiring to issue any obligations shall hold an election for that purpose in accordance with the provisions of the Constitution and laws of this State controlling and regulating such election, and the returns of such election shall show prima facie that such election is in favor of the issuance of such obligations, or when the governing body of any unit in any case where an election is not required by the Constitution or laws of this State, shall adopt any ordinance or resolution or take any other action required by law for the issuance of obligations of such unit, the governing body of such unit may in its discretion before the issuance of any of such obligations, determine its authority to issue such obligations and the legality of all proceedings had or taken in connection therewith and the validity of the tax or other means provided for the payment thereof, and the validity of all pledges of revenues and of all covenants and provisions contained in any such ordinance or resolution, by filing a petition against the taxpayers and citizens of the unit in the Circuit Court of the County in which such election has been held or other proceedings have been had or taken.

Section 3.—The authority for issuing such obligations, the fact that an election has been held and that such election was in favor of the issuance of such obligations, if an election be required, the ordinances or resolutions authorizing their issuance and the fact of their adoption, and all essential proceedings had or taken in connection therewith, the amount of the obligations to be issued, what interest they are to bear, when and where principal and interest are to paid, the tax or other means provided for their payment, the assessed value of the property in the unit, the amount of outstanding indebtedness incurred for each purpose and the date or dates when so incurred, and the amount in each sinking fund of the unit, shall be briefly set out in said petition by appropriate allegations, references or exhibits. The Judge of said Court shall, on the filing and presentation of said petition, issue an order against the taxpayers and citizens of such unit, requiring them to show cause at such time and place within the County to be designated in said order, which time shall be not less than twenty days nor more than forty days after the issuance of such order, why said obligations should not be validated and confirmed. A copy of said petition and order shall be served on the State Solicitor of the county in which such proceedings are pending at least eighteen days before the date fixed for the hearing in and by such order. It shall be the duty of the State Solicitor to carefully examine such petition, and if it appears to him, or if he has any reason to believe that such petition is defective, insufficient or untrue, or if, in his opinion, the issuance of the obligations in question have not been properly authorized or would be in violation of law or the tax or other means provided for their payment would not be valid, he shall make such defense thereto as to him shall seem proper. Any officer, agent, or employee, who has charge, possession, custody or control of any of the books, papers or records of said unit shall, on demand of the State Solicitor, exhibit to him for examination said books, papers and records, and shall, without cost, furnish to him duly authenticated copies of such books, papers and records which pertain to the proceedings for the issuance of such obligations or which might affect the legality of same or the validity of the tax or means provided for their payment, as he shall demand. Prior to the hearing of said cause, the Register of said Court shall publish in a newspaper published in the unit once each week for at least three weeks before the hearing, the first publication to be at least eighteen days before such hearing, a notice addressed to the taxpayers and citizens of such unit requiring them, at the time and place specified in the order providing for the hearing of such cause, to show cause, if any they have, why said obligations and the tax or other means provided for their payment should not be validated and confirmed; provided, however, that if

no newspaper shall be published in such unit, then such notice shall be published as aforesaid in a newspaper published in the county, or if no newspaper be published in the county, then in a newspaper published within the State and having a general circulation in such unit. By the publication of such notice all taxpayers and citizens of such unit shall be considered as parties defendant to said proceedings and the Court shall have jurisdiction of them the same as if each of them were named individually as a party defendant in said petition and personally served with process.

Section 4.—At the time and place designated in said order, the Judge of said Circuit Court shall proceed to hear and determine all questions of law and of fact in said cause, and he shall make such orders as to the proceedings in said cause and adjournments as will best conserve the interests of all parties and enable him to render a final decree with the least possible delay. The final decree shall find the facts specially and shall state separately the Judge's conclusions of law thereon. Any taxpayer or citizen of the unit may appear in such proceedings either personally or by attorney, and any party thereto, whether petitioner, defendant or intervenor, dissatisfied with the decree of the Court, may appeal therefrom to the Supreme Court within fifteen days after the entry of such decree. Such appeal shall be effected by the filing in the office of the Register of the Circuit Court of the county wherein such proceedings are pending, a notice of appeal returnable in the Supreme Court not less than fifteen days nor more than twenty days after the filing of such notice of appeal. On or before the return day of said appeal the appellant shall file in the Supreme Court a certified copy of all of the said proceedings, including a transcript of all the evidence taken therein before the Court. Upon application of either party, such evidence shall be duly certified by the Judge who heard said cause and entered the decree appealed from. The certified copy of all of said proceedings as aforesaid duly filed in the Supreme Court, shall constitute the record upon which said appeal shall be heard in the Supreme Court. Within ten days after the return day of such appeal the appellant shall file his brief in the Supreme Court and shall deliver a copy thereof to the appellee or his attorney of record, who shall within five days thereafter file his brief, and shall deliver a copy thereof to the appellant or his attorney of record, who may reply thereto within five days. After the time for filing briefs as aforesaid has expired, the Supreme Court shall proceed to the consideration of said cause upon the record and briefs; provided, however, that if either party shall file a request in writing for oral argument by the return day of such appeal, the Court may enter an order setting down said cause for oral argument for the earliest practicable date. There-

after the Supreme Court shall give immediate consideration to said appeal and render its decision thereon in due course. Such decision shall be final after ten days and mandate shall issue forthwith, if no petition for rehearing has been filed. Such appeal shall take priority in the Supreme Court over all other civil cases therein pending except habeas corpus.

Section 5.—If (a) the Circuit Court shall render a decree validating and confirming the issuance of the obligations and no appeal shall be taken within the time prescribed herein, or (b) if taken, the decree validating such obligations shall be affirmed by the Supreme Court, or (c) if the Circuit Court shall render a decree refusing to validate and confirm the issuance of the obligations and on appeal such decree shall be reversed by the Supreme Court (in which case the Supreme Court shall issue its mandate to the Circuit Court requiring it to render a decree validating and confirming the issuance of the obligations), the decree of the Circuit Court validating and confirming the issuance of the obligations shall be forever conclusive as to the validity of such obligations against the unit issuing them, and against all taxpayers and citizens thereof, and the validity of such obligations or of the tax or other means provided for their payment, shall never be called in question in any Court in this State.

Section 6.—Obligations validated under the provisions of this Act, shall have stamped or written thereon by the proper officers of such unit the words: "Validated and confirmed by decree of the Circuit Court of \_\_\_\_\_ County, State of Alabama, rendered on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_," which shall be signed by the Register of the Circuit Court in which the decree was rendered, and such entry shall be original evidence of said decree in any Court in this State.

Section 7.—The costs in any proceeding under this Act shall be paid by the unit issuing such obligations.

Section 8.—No action shall be taken under this Act for the validation of obligations of a unit in any case where the validity of such obligations is in controversy in any action or proceeding now pending in any State or Federal Court.

Section 9.—This Act shall be in full force and effect from and after its passage and approval.

Approved July 17, 1935.

No. 197)

(H. 450—Staples

## AN ACT

Authorizing the governing body of any county, city or town to exercise all powers necessary to carry out plans for refinancing its indebtedness, and to proceed under any Act of the Congress of the United States relating to the readjustment of municipal indebtedness, and assenting to the Act of Congress approved May 24, 1934, amending the National Bankruptcy Act.

*Be it Enacted by the Legislature of Alabama:*

Section 1. The governing body of any county, city or town which shall authorize the issuance of refunding or funding bonds may exercise all powers deemed necessary by such governing body for the execution and fulfillment of any plan or agreement for the settlement, adjustment, refunding or funding of the indebtedness of such county, city or town, not inconsistent with the provisions of law relating to the issuance of refunding or funding bonds. Without limiting the generality of any of the foregoing powers, it is expressly declared that any such governing body shall have the power to take all steps and proceedings contemplated or permitted by any act of the Congress of the United States then in force relating to the readjustment of municipal indebtedness. And the State of Alabama hereby gives its assent to the Act of Congress approved May 24, 1934, entitled "An Act to amend an Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United State', Approved July 1, 1898, and acts amendatory thereof and supplemental thereto," and hereby authorizes each county, city or town in the State to proceed under the provisions of said Act for the readjustment of its debts.

Section 2. This Act shall be in full force and effect from and after its passage and approval.

Approved July 17, 1935.

No. 198)

(H. 451—McDermott

## AN ACT

To authorize the governing body of any municipality to issue refunding interest-bearing certificates of indebtedness, refunding interest-bearing warrants, and refunding interest-bearing notes, for the purpose of funding or refunding the principal of and interest on outstanding certificates of indebtedness, warrants, or notes, of such municipality, or of refunding or discharging any judgment or judgments based upon such obligations, and to pledge to the payment thereof any taxes, licenses or revenues which the municipality may be authorized to pledge to the payment of bonded or other indebtedness.

*Be it Enacted by the Legislature of Alabama:*

Section 1. The governing body of any municipality in this State is hereby authorized to issue, without an election, refunding

interest-bearing certificates of indebtedness or refunding interest-bearing warrants or refunding interest-bearing notes maturing at such time or times as the governing body may determine, not exceeding thirty years from their respective dates, for the purpose of funding or refunding a like or greater amount of the principal of and interest on outstanding certificates of indebtedness or interest bearing warrants or notes of such municipality not exceeding the amount of such indebtedness whether the same are due at the time of such funding or refunding or at a later date, or for the purpose of refunding or discharging any judgment or judgments based upon such obligations, and the governing body of any such municipality may pledge to the payment of the principal of and interest on said refunding certificates of indebtedness or refunding interest bearing warrants, or refunding notes any tax, or license, or revenues which the municipality may then be authorized to pledge to the payment of bonded or other indebtedness.

Section 2. This Act shall be in full force and effect from and after its passage and approval.

Approved July 17, 1935.

No. 199)

(H. 611—Lusk

### AN ACT

To create a State Docks Commission; to provide that the State Docks known as the Mobile Port Docks shall be under the supervision and direction of the Docks Commission. To designate the number of members thereof and how the same should be appointed; the residence of the members; their terms of office and the filling of any vacancies therein. To describe their powers, authority and compensation. To further provide that the Governor of Alabama shall be a member of the Commission and ex officio Chairman thereof. And to repeal any laws in conflict herewith.

*Be it Enacted by the Legislature of Alabama:*

Section 1. The State Docks, known as the Mobile Port Docks, from and after the approval of this Act, shall be under the supervision, control, management and direction of the Docks Commission, to consist of three appointive members, to be appointed by the Governor of Alabama, and of the Governor as ex officio member of said Commission and Chairman thereof. No two of the appointed members shall be residents of the same Congressional district of the State. The members of the Commission, as now constituted, shall hold office until their present respective terms of office shall expire and until their successors shall be appointed, as provided by this Act. When a vacancy shall occur on the Commission by expiration of the term of office, by resignation, or by death, or from any other cause, the vacancy or vacancies shall be



filled by appointment by the Governor. The term of office of each Commissioner, after the expiration of the term of the present members, shall be four years. The said Docks Commission is hereby provided and designated as the agency of the State thru which the State shall accomplish the maintenance and operation of all the improvements and facilities authorized by Act of the Legislature of Alabama, approved January 17, 1927, and known as the State Docks at Mobile, Alabama, relating to creation of the Docks Commission, its powers, authorities and compensation, and thru which the same shall be managed and controlled by the State, and hereafter such agency shall be called the Commission. It is further provided that no person having financial interest in any harbor facilities, such as the State Docks Commission is authorized to deal with, shall be eligible for appointment as a member of said Commission. The members of said Commission shall receive their actual expenses in attending meetings of said commission, or in attending to any of the duties of its office.

Section 2. The Governor of Alabama shall be a member of said Commission and ex officio Chairman thereof, and all the duties now imposed upon him by any laws of the State of Alabama in relation to said Commission, or the management of State Docks at Mobile, Alabama, shall refer and relate to duties as a member of said Commission and as the Chairman thereof.

Section 2-1/2. The State Docks Commission shall have power to fix the compensation and salaries of all employees of the State Docks Commission, with the approval of the Governor, and shall do all things necessary in their judgment to promote the best interests of the State Docks.

Section 3. That all laws and parts of laws in conflict with the provisions of this Act be and the same are hereby repealed, but only such laws as conflict herewith, it being the purpose and intention to retain all laws regulating what is known as the Mobile Docks, but only thru the agency herein provided.

Section 4. This Act shall go into effect immediately upon its approval by the Governor.

Approved July 10, 1935.

No. 200)

(H. 640—Almon

### AN ACT

To authorize the creation and incorporation of an Authority to be known as the Alabama Industrial Authority for the purpose of relieving unemployment by sponsoring new industries in the State of Alabama by rendering financial and other assistance; defining its powers and duties; authorizing it to issue bonds and providing for the payment of such bonds.

*Be it Enacted by the Legislature of Alabama:*

Section 1. This Act may be known and referred to as the "Alabama Industrial Authority Act."

Section 2. The Alabama Industrial Authority shall consist of three directors, one of whom shall be the Lieutenant Governor of the State, another the Attorney General, and the third shall be appointed for a term of nine (9) years by the other two members of the Board.

Section 3. The Lieutenant Governor and the Attorney General shall appoint the other member of the Authority as soon after the approval of this Act as is practicable. In the event of a vacancy on the part of the third member for any cause whatsoever, the same shall be filled by the Lieutenant Governor and the Attorney General, which appointment shall be for the unexpired term.

Section 4. Promptly after the approval of this Act and the appointment by the Lieutenant Governor and the Attorney General of the third member of the Board of Directors, the Authority shall meet to organize. The Lieutenant Governor shall be ex officio Chairman of the Board and the member to be appointed by the Lieutenant Governor and the Attorney General shall be Secretary. Said third member of the Board of Directors shall receive, as compensation for his services, such sum as may be fixed by the Authority and paid by the industry or industries qualifying under the provisions of this Act. The third member of the Board of Directors shall not hold any other public office under this State. The Authority may elect such other officers and appoint such agents and employees as it deems necessary, and may delegate to one or more of its members, officers, agents or employees such powers and duties as it deems proper.

Section 5. The Authority provided for by this Act may become a public corporation in perpetuity under its corporate name, and shall under that name be a body politic and corporate, with power of perpetual succession and with the power and authority hereinafter defined, by proceeding according to the provisions of this Act.

Section 6. To become a corporation, the Authority shall file with the Secretary of State an application showing the names and terms of office of directors of the Authority; the name which is proposed for the corporation; the location of the principal office of the proposed corporation and any other matters relating to the incorporation which the applicants may choose to insert not inconsistent with the Constitution and Laws of the State of Alabama. The application shall be subscribed and sworn to by each of the members of the Authority before an official authorized by the laws of the State of Alabama to take and certify oaths, who shall certify upon the application that he personally knows the applicants and believes them to be members of the Alabama Industrial Authority as asserted in the application, and that they each subscribed and swore thereto in the officer's presence. There

shall be attached to said application a copy of the By-laws of the Authority.

Section 7. The Secretary of State shall examine the application and if he finds that the name proposed for the corporation is not identical with any person or of any other corporation in this State, or so nearly similar thereto as to lead to confusion and uncertainty, he shall receive and file it, and shall record it in an appropriate book of record in his office.

Section 8. When the application has been made, filed and recorded, as herein provided, the applicant shall constitute a corporation under the name proposed in the application; the Secretary of State shall make and issue to the applicant a certificate of incorporation, pursuant to this Act, under the seal of the State and shall record the same with the application.

Section 9. The corporate purpose of the Authority is to encourage industry to locate in the State of Alabama in order to give employment to that part of the population of this State which is now unemployed and to that end to apply for and secure the allocation of available Federal Funds with which to develop industry or industries, whose principal activity is within this State.

Section 10. The Authority when incorporated shall be vested with all powers necessary or requisite for the accomplishment of its corporate purpose and capable of being delegated by the Legislature of the State of Alabama; and no enumeration of particular powers hereby granted shall be construed to impair any general grant of power herein contained, nor to limit any such grant to a power or powers of the same class or classes as those so enumerated.

Section 11. Subject only to the Constitution of the State of Alabama, the Authority shall have the power: (1) To sue and be sued. (2) To have a seal and alter the same at pleasure. (3) To acquire, hold and dispose of property, real and personal, tangible and intangible, or interests therein, in its own name, subject to mortgages or other liens or otherwise and to pay therefor in cash or on credit, and to secure and procure payment of all or any part of the purchase price thereof on such terms and conditions as the Authority shall determine. (4) To cause industrial surveys to be made of the various parts of the State of Alabama for the purpose of determining the economic soundness of the development of a particular industry in that location; to make plans and estimates of the cost of such developments and improvements and in connection therewith to enter on any lands, waters, and premises for the purpose of making such surveys, drillings, soundings and examinations. (5) To execute all instruments necessary or convenient. (6) To borrow money and issue bonds and to provide for the rights of the holders thereof. (7) To accept gifts or grants of money or property, real or personal, and voluntary and uncom-

ensated services from any person, Federal agency or municipality. (8) To make any and all contracts necessary or convenient for the full exercise of the powers herein granted. (9) To do any and all acts and things herein authorized or necessary or convenient to carry out the powers expressly given in this Act under, through or by means of its own officers, agents and employees, or by contracts with any person, Federal agency or municipality. (10) To act as principal or agent in applying for and securing the allocation of Federal Funds. (11) To supervise such new industries as may qualify under this Act and locate in the State of Alabama. (12) To act as a permanent agency to administer the liquidation service of the loans procured. (13) To impose upon the enterprises qualifying for loans under this Act, among others, the following: (a) Non-payment of dividends on stock during the period of liquidation of loan or loans. (b) May require the election of at least one director on the board of each enterprise qualifying under this Act, provided such appointment has not been directly imposed by the Federal Agency. (c) To employ, at the expense of the enterprise, auditors acceptable to the Authority to make any additional audits as may be necessary to protect the Authority in its execution of services. (d) To require periodical reports of amounts of funds on deposit for amortization purposes. (e) To cooperate with the currently existing employment agencies of the State in absorbing the services of employables.

Section 12. The Authority created by this Act is authorized to render assistance only to those industries who shall operate as follows: (1) They shall be ready to undertake construction of the enterprise immediately. (2) The loan procured must be completely self-liquidating. (3) A substantial portion of the proceeds of the loan procured must be used for the employment of relief labor. (4) After construction, the entire operating payroll of the enterprise must annually equal twenty-five per centum (25%) of the amount of the capital loan procured. (5) After construction, the industry shall annually consume in its operation raw material, power, or fuel, procurable in the State to such quantity that the price paid shall amount to at least one-eighth of the amount of the capital loan procured. (6) The industry must perpetually in its operation entrain labor, material, and power in the form of marketable commodities, which commodities are also essential to national defense.

Section 13. The Authority shall have power and is hereby authorized from time to time to issue bonds in anticipation of its revenues, for any corporate purposes. Said bonds may be authorized by resolution or resolutions of the Authority and may be issued in one or more series, may bear date or dates, mature at such time or times, not exceeding forty years, from their respective dates, bear interest at such rate or rates, not exceeding six per centum

per annum, payable semi-annually, be in such denominations, be in such form, either coupon or registered, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, be declared or become due before the maturity date thereof, as such resolution or resolutions may provide. Said bonds may be issued for money or property (at public or private sale for such price or prices) as the Authority shall determine, provided, that the interest cost to maturity of the money or property (at its value as determined by the Authority, the determination of which shall be conclusive) received for any issue of said bonds, shall not exceed six per centum per annum, payable semi-annually. Said bonds may be repurchased by the Authority out of any available funds at a price not to exceed the principal amount thereof and accrued interest, and all bonds so repurchased shall be cancelled. Pending the preparation or execution of definitive bonds, interim receipts or certificates or temporary bonds may be delivered to the purchaser or purchasers of said bonds.

Section 14. Said bonds bearing the signature of officers in office on the date of the signing thereof shall be valid and binding obligations notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon shall have ceased to be officers. The resolution or resolutions authorizing said bonds may provide that the bonds shall contain a recital that they are issued pursuant to this Act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

Section 15. No holder or holders of any bonds issued under this Act shall ever have the right to compel any exercise of taxing power of the State or of any political subdivision thereof to pay said bonds or the interest thereon. Each bond issued under this Act shall recite in substance that said bond, including the interest thereon, is payable from the revenues pledged to the payment thereof, and that said bond does not constitute a debt of the State.

Section 16. The Authority shall not be operated for gain or profit or primarily as a source of revenue to the State. The Authority shall, however, prescribe and collect reasonable rates, fees or charges for the services made available by it, and shall revise such rates, fees or charges from time to time whenever necessary so that the Authority shall be and always remain self-supporting, and shall not require appropriations by the State to enable it to carry out its purpose. The rates, fees or charges prescribed shall be such as will produce revenue at least sufficient to pay when due all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor.

Section 17. The State of Alabama does pledge to and agree with the holders of bonds issued by the Authority that the State will not limit or alter the rights and powers hereby vested in the Authority to fix and collect such rates, fees and charges as may be necessary or advisable in order to produce sufficient revenue to meet all expenses of maintenance and operation and to fulfill the terms of any agreements made with the holders of such bonds, or in any way impair the rights and remedies of the holders of such bonds, until such bonds together with interest thereon, and interest on any unpaid installments of interest, and all costs and expenses in connection with any suits, actions or proceedings by or on behalf of such bondholders are fully paid and discharged.

Section 18. In connection with the issuance of bonds or in order to secure the payment of its bonds, the Authority incorporated under this Act shall have power: (1) To pledge all or any part of its revenues. (2) To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to its bonds, to provide for the powers and duties of such trustee or trustees, to limit the liabilities thereof, and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any amount or proportion of them may enforce any such covenant. (3) To make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds or which, in the absolute discretion of the Authority, tend to make the bonds more marketable, notwithstanding that such covenants, acts and things may restrict or interfere with the carrying out of its corporate purposes; it being the intention hereof to give the Authority power to do all things in the issuance of bonds, and for their security, that a private business corporation can do under the general laws of the State.

Section 19. In addition to all other rights and all other remedies, any holders of bonds of the Authority, including a trustee for bondholders, shall have the right by mandamus or other suit, action or proceeding, at law or in equity, to enforce his rights against the Authority and including the right to require the Authority to fix and collect rates and charges adequate to carry out any agreement as to, or pledge of, the revenues produced by such rates or charges, and to require the Authority and such board to carry out any other covenants and agreements with such bondholder and to perform its and their duties under this Act.

Section 20. In the event that the Authority shall cease to exist, all of its assets remaining after all of its obligations and liabilities have been satisfied or discharged shall pass to and become the property of the State.

Section 21. If any provision of this Act, or the application of such provision to any person, body, or circumstance shall be held invalid, the remainder of this Act, or the application of such provision to persons, bodies, or circumstances, other than those as to which it is held invalid, shall not be affected hereby.

Section 22. This Act shall become effective immediately upon its passage and approval by the Governor.

Approved July 10, 1935.

No. 201)

(H. 707—Walker

### AN ACT

To authorize the Governor, by and with the advice of the State Superintendent of Education, to procure and furnish to the children in the public schools free adopted textbooks for the First, Second and Third Grades, the condition of the Treasury permitting, and to make an appropriation of a sum sufficient to do so.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That the Governor, by and with the advice of the State Superintendent of Education, is hereby authorized to purchase and furnish to the children of the First, Second and Third grades free adopted textbooks; it being intended hereby to authorize the Governor, if in his judgment the condition of the Treasury warrants it, to purchase for the scholastic year 1935-36 adopted textbooks and furnish them free to the students of the First grade, and during the scholastic year 1936-37 to purchase and furnish free adopted textbooks to the First and Second grade students in the public schools, and, if in the judgment of the Governor the condition of the Treasury warrants it, during the scholastic year 1937-38 he is hereby authorized to purchase and furnish free adopted textbooks to the First, Second and Third grades.

Section 2. In order that the Governor may carry out the provisions of this Act, a sum not exceeding \$175,000.00 is hereby appropriated from any funds in the Treasury not otherwise appropriated during the scholastic year 1935-36, if in the opinion of the Governor the condition of the Treasury warrants it.

Section 3. There is hereby appropriated for the scholastic year 1936-37, for the purpose of carrying out the provisions of this Act, the sum of \$125,000.00, or so much thereof as is needed to furnish free adopted textbooks to the public school students of the First and Second grades, if in the opinion of the Governor the condition of the Treasury warrants it.

Section 4. There is hereby appropriated for the scholastic year 1937-38, for the purpose of carrying out the provisions of this Act, the sum of \$225,000.00, or so much thereof as is needed to furnish free adopted textbooks to the pupils in the public schools

in the First, Second and Third grades, if in the opinion of the Governor the condition of the Treasury warrants it.

Section 5. And thereafter during each scholastic year, there is hereby appropriated the sum of \$200,000.00, or so much thereof as may be needed for the purpose of furnishing free adopted textbooks to the pupils in the public schools in the First, Second and Third grades, if in the opinion of the Governor the condition of the Treasury warrants it.

Section 6. The money herein appropriated shall be paid out of any funds in the Treasury not otherwise appropriated upon the direction of the Governor to the State Comptroller to draw a warrant for such sum, and at such time and in such manner as the Governor may determine.

Section 7. All laws and parts of laws in conflict herewith be and the same are hereby repealed.

Approved July 17, 1935.

No. 203)

(H. 317—Calhoun

### AN ACT

To provide for payment to the Sheriffs of the several Counties of the State for service in preparing food of prisoners, serving food of prisoners and other services incident to the feeding of prisoners, not including the food to be served to prisoners, and to specifically repeal Section 4828 of the Code of Alabama of 1923.

#### *Be it Enacted by the Legislature of Alabama:*

Section 1. That the Sheriffs of the several Counties of the State shall receive pay for services in preparing food, serving food and other services incident to the feeding of prisoners, not including the cost of food to be served to such prisoners, as follows: For 1 prisoner \$1.00 per prisoner per day; For each prisoner from 2 to 5 prisoners 50c per prisoner per day; For each prisoner from 6 to 10 prisoners 40c per prisoner per day; For each prisoner from 11 to 20 prisoners 30c per prisoner per day; For each prisoner from 21 to 85 prisoners .05c per prisoner per day.

Section 1-1/2. That in all counties where there are two or more jails the report of prisoners in said jails shall be made upon the number of prisoners confined, but the Sheriff shall be only paid as if all of said prisoners were confined in one jail.

Section 2. This act shall go into effect immediately upon its approval by the Governor.

Section 3. All laws and parts of laws, both general and special, in conflict herewith, are hereby repealed, and specifically repeals Section 4828 of the 1923 Code of Alabama.

Approved July 10, 1935.



## AN ACT

To amend an Act entitled an Act, "To amend Section 4 of an Act entitled: An Act to provide for the consolidation of the administration and control of the public school system in any county of not less than seventy five thousand nor more than one hundred thousand population according to the last or any succeeding Federal Census; to establish a Board of Education, in lieu of all other city and county Boards of Education in such counties, and provide for the manner of its selection and to define its authority, approved March 5, 1931. Approved July 8, 1931.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That An Act to amend An Act entitled an Act, To amend Section 4 of An Act Entitled: An Act to provide for the consolidation of the Administration and control of the public school systems in any county of not less than seventy five thousand nor more than one hundred thousand population according to the last or any succeeding Federal Census; to establish a Board of Education in such counties, and provide for the manner of its selection and to define its authority, approved March 5, 1931, approved July 8, 1931, be amended so as to read as follows: Section 4. All rights, privileges, authority and powers now vested by law in any City Board of Education or any County Board of Education within any such County be and the same are hereby conferred upon and vested in the Board of Education created by this Act, and such Board shall have full authority to make a single coordinated system of all the City and County public schools in any such County, but no contracts, obligations or employment entered into by the existing Boards prior to the passage of this Act shall in any way be effected by their abolishment. And such Boards of Education shall be vested with the title to all property, real and personal of every description previously owned by any City Board of Education or any County Board of Education within any such county, with full right to convey or mortgage any such property, and with full power and right to purchase, acquire and hold additional property of all kinds and description, provided that any such conveyance, mortgage or purchase of real estate lying within the corporate limits of any such City shall be by and with the consent of the governing authorities of such City, and any such conveyance mortgage or purchase of real estate lying not within the corporate limits of such City shall be by and with the consent of the Court or County Commissioners or Board of Revenue of such County, and such Board of Education shall have full authority to employ teachers, experts, attorneys, engineers, architects, and all other employees of every character which it thinks necessary or desirable for the proper conduct and administration of the business of said Board of Education, and all purchases of property heretofore made,

and all contracts of employment heretofore entered into for any said purposes herein stated, be and the same are hereby ratified. And said Board shall have full authority to refund any debts incurred by it for school purposes and to secure any warrants issued in connection with any such refunding with the proceeds of any income, fixed or otherwise, which it may receive or be entitled to under the laws of Alabama for the construction maintenance and operation of the schools of any such city and county. And the Board shall be authorized to use all monies received by said Board for any and all school purposes. And all warrants heretofore issued for the payment of salaries of its teachers and employees and for all other purposes, including those warrants which have been heretofore paid and warrants for the current scholastic year payable in January 1936, be and the same are hereby in all respects validated and the actions of the Board in issuing all such salary warrants and warrants for all other purposes, be and the same are hereby in all respects ratified and confirmed regardless of the fact that it has been and is necessary to use monies in the payment of said warrants other than monies received during the scholastic year in which such warrants have been or shall be issued. And such Board may establish a department of accounting suitable for its needs, which department must show the application of all funds received and disbursed, showing from whom received and to whom disbursed. Said Board further shall file a general statement of its receipts and disbursements annually with the State Superintendent of Education, the County Board of Revenue, and the governing authority of each city located in said county. The Board is authorized to make refund of any taxes received by it which any court of competent jurisdiction has adjudged or may hereafter adjudge, were or may be improperly collected and such refund may be made from any funds in the hands of the Board regardless of the source of such funds or the year in which the same are received, and any such settlements heretofore made be and the same are hereby ratified. The Board is authorized to keep insured against loss by fire or other casualty, all or any of its school buildings or other improvements. For that purpose, as well as for the purpose of paying any indebtedness heretofore incurred for carrying such insurance, and also for the purpose of meeting current expenses, the Board may borrow money on the credit of the school fund, when the current funds on hand are insufficient, and as security for any such loan, or loans, may pledge all current school revenues for the current school year. All such loans shall be payable not later than April 1st next after the end of the current school year in which such loan or loans, are made, and from the funds for the support of the schools accruing within the current tax year in which the loan is procured, or from any other available fund. The amount so borrowed shall at no time exceed one-third

of the sum paid out for current expenses during the preceding school year. To obtain such loan or loans, the Board is authorized to issue its interest bearing warrant or warrants, or its negotiable note or notes, and, if necessary, it is authorized to have any such warrant or note discounted at not exceeding the legal rate of interest.

Section 2. All laws and parts of laws in conflict with the provisions of this Act shall be, and the same are, hereby repealed.

Section 3. The provisions of this Act shall become effective on its approval by the Governor.

Approved July 11, 1935.

No. 211)

(H. 648—Hendley

### AN ACT

In relation to the educational system of Alabama to prescribe the duties of the State Department of Education, the organization of the State Department of Education, the expenses of the State Department of Education, the compensation of employees of the State Department of Education, and to amend the Code of Laws of the State of Alabama, known as the "Alabama School Code" of 1927, adopted as the Code of Laws for the State of Alabama prepared in accordance with the provisions of the Act approved August 11, 1927, (S.296 Mitchell), by the Act approved August 27, 1927, and which pertains to the system of public schools throughout the State, its organization and administration, as follows: Amending Article III by repealing Sections 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23, pertaining to the creation of the State Department of Education, its organization, divisions, personnel, and duties, and amending Article IV by repealing Sections 62 and 63 pertaining to Expenses of the Department and to Compensation of Employees, and substituting therefor the provisions contained in this Act; and to repeal all laws and parts of laws in conflict with the provisions of this Act.

#### *Be it Enacted by the Legislature of Alabama:*

Section 1. DUTIES OF THE STATE DEPARTMENT OF EDUCATION. The duties of the State Department of Education shall be, through its personnel, to assist in executing the policies and procedure authorized by law and by regulations of the State Board of Education.

Section 2. ORGANIZATION OF THE STATE DEPARTMENT OF EDUCATION. By action of the State Board of Education, upon recommendation of the State Superintendent of Education, the Department shall be organized into such divisions and services as may be found necessary to carry on its work efficiently.

Section 3. EXPENSES OF THE STATE DEPARTMENT OF EDUCATION. Any funds or appropriations which are now available or which may hereafter be made available to the State Superintendent of Education, the State Board of Education, or the State Department of Education for use in operating, maintain-

ing, or providing for the expenses of the State Department of Education shall be expended in accordance with an annual budget adopted by the State Board of Education upon recommendation of the State Superintendent of Education, provided the total amount of such budget shall not exceed the appropriations of funds available during that year. Such funds or appropriations shall be expended for the salaries and expenses of the executive, supervisory, or clerical personnel and for other essential purposes, including compensation and expenses of the members of the State Board of Education in the discharge of their official duties as provided by law.

Section 4. **COMPENSATION OF EMPLOYEES.** The State Board of Education upon recommendation of the State Superintendent of Education shall determine the compensation of all employees in the State Department of Education, the total amount of such compensation to be subject to the limitations of the appropriations available for the proper maintenance of the Department and to the officially adopted budget of the State Board of Education.

Section 5. That Sections 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23 of Article III of the "Alabama School Code" of 1927, be and the same are hereby repealed.

Section 6. That Sections 62 and 63 of Article IV of the "Alabama School Code" of 1927 be and the same are hereby repealed.

Section 7. **REPEAL OF CONFLICTING LAWS.** That all laws and parts of laws, general, special, or private, in conflict with the terms and provisions of this Act are hereby repealed, and all existing laws or parts of laws applicable to the departments and agencies of the State generally and to the Department of Education, the State Board of Education, or the State Superintendent of Education, in conflict with the terms and provisions of this Act are hereby repealed in so far as they are applicable to the Department of Education, the State Board of Education, or the State Superintendent of Education.

Section 8. **EFFECTIVE DATE.** This Act shall take effect and become operative immediately upon its passage and approval by the Governor.

Approved July 10, 1935.

No. 212)

(H. 653—Hendley)

## AN ACT

In relation to the educational system of Alabama to make an appropriation to provide funds for the purpose of paying salaries of public elementary and high school teachers for the remainder of the normal term during the year 1934-1935 in the several counties of the State, the cities under 5,000 population, and the State Secondary Agricultural Schools, where all local, State, and Federal funds available for that purpose have been exhausted.

*Be it Enacted by the Legislature of Alabama:*

Section 1. There is hereby appropriated out of the State Treasury to the State Board of Education for the purpose of paying salaries of public elementary and high school teachers during 1934-1935 in the several counties of the State, the cities under 5,000 population, and the State Secondary Agricultural Schools, where all local, State, and Federal funds available for that purpose have been exhausted, the amount which is necessary for payment of such salaries for the remainder of the normal term under conditions set forth below, provided this amount may not exceed Five Hundred Thousand (\$500,000.00) Dollars.

Section 2. The funds appropriated in this Act are to be used for payment of teachers' salaries only in the several counties of the State, in cities under 5,000 population, and in State Secondary Agricultural Schools, in which funds available for salaries of teachers were exhausted before the normal term was completed, as shown by audit of the Federal Emergency Relief Administration.

Section 3. These funds are to be used to pay salaries due to teachers as evidenced by bona fide pay rolls submitted to the respective county or city superintendent of education or principals of state secondary agricultural schools, under the following conditions: (1) To provide for payment of salaries of teachers certified as eligible to be paid from Federal Relief Funds between the time Federal Relief Funds available for such purposes have been exhausted and the end of the normal term in any county, or city under 5,000 population, or State Secondary Agricultural School, provided this term does not exceed seven months in the elementary schools and nine months in the high schools, and provided salaries paid such teachers are to be at the rate certified by the Federal auditors and not to exceed \$60.00 per month. (2) To provide for the payment of salaries of teachers in elementary schools in the several counties of the State, in cities under 5,000 population, and in State Secondary Agricultural Schools, whose normal term is longer than seven months, between the end of the seventh month and the end of the normal term in such schools, provided such salaries are not to exceed the salaries allowed by the Federal Relief Authorities, or \$60.00 per month. (3) To provide for pay-

ment of salaries of bona fide teachers who were ruled ineligible for participation in Federal Relief Funds, such salaries to be paid for the time between the period the county, or city, or State Secondary Agricultural School, became eligible for participation in Federal Relief Funds for salaries of teachers and the end of the normal term, provided such term does not exceed seven months for elementary grades and nine months for high school grades, and provided further that such salaries shall not exceed the contract salary as used by the Federal Relief authorities, or \$60.00 per month. (4) To provide for the payment of the difference between the Relief salaries allowed and the contract salaries of teachers for the year 1934-1935 in any county, or city, or State Secondary Agricultural School, between the time such county, or city, or State Secondary Agricultural School, became eligible to participate in Federal Relief Funds for salaries of teachers and the end of a seven months term.

Section 4. The term "teachers" as used herein is defined for purposes of this Act to include teaching principals, as defined under Federal Relief regulations.

Section 5. The appropriation provided in this Act or such amount thereof as may be needed shall be expended by the State Superintendent of Education in accordance with rules and regulations which are not in conflict with the provisions of this Act by means of checks or drafts drawn by him or by a person duly delegated by him and payable directly to the teacher certified for participation in this grant under the terms set forth.

Section 6. That all laws and parts of laws in conflict with the terms and provisions of this Act be and the same are hereby repealed.

Section 7. The appropriation as provided for in this Act shall become available for disbursement by the State Superintendent of Education or his duly delegated agent immediately upon approval of this Act by the Governor.

Approved July 10, 1935.

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No. 218)

(H. 255—McDermott

## AN ACT

To require the Division of Departmental and County Audits to have examined the records of all county officers at least once in every two years; to provide for a sufficient number of assistant examiners of public accounts to carry out the provisions of this act; to define their duties and provide for their compensation, requiring the counties to pay for said examination out of the general fund of the county where the State

is not interested and where the State is interested to require the counties to pay their pro rata share.

*Be it Enacted by the Legislature of Alabama:*

Section 1. The Division of Departmental and County Audits is hereby required to examine the records of each county officer in every county in this state at least once every two years and when said examination shall have been completed no subsequent examination for the period covered shall be made at the expense of the county.

Section 2. The Governor is hereby authorized to appoint assistant examiners in addition to those now authorized by Section 739 of the Code of Alabama of 1923, sufficient in number to secure the enforcement of this Act and said examiners shall have the same authority, be paid the same compensation and be governed by all the rules prescribed by Chapter 24 of the Code of Alabama of 1923 and all the amendments thereto.

Section 3. Where the State is not interested in the examination or where the examination refers altogether to a county examination, the Board of Revenues or Commissioners Court of the County shall pay out of general funds of the county the expense of examination, but if the examination is of matters belonging to the State and the County then the State and County are each to share their pro rata share of the expense of examination to be determined by the Comptroller with the approval of the Governor, and if the examination is a matter belonging or appertaining to the State alone then the State shall pay all the expenses of examination.

Section 4. That all laws and parts of laws in conflict herewith be and the same are hereby expressly repealed.

Section 5. This Act shall become effective on its approval by the Governor.

Approved July 17, 1935.

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No. 219)

(S. 81—Starnes

## AN ACT

To provide for the leasing, buying, condemning, otherwise acquiring, and/or freeing of any and all toll bridges within the State by the State Highway Department, with the approval of the Governor, and to provide the method and manner in which said leasing, purchasing, condemning, otherwise acquiring, and/or freeing of any and all of said bridges shall be accomplished; and to authorize and empower the State Highway Department to make, enter into and execute, with the approval of the Governor, any and all contracts or agreements necessary for the accomplishment of the purpose of this Act and to set aside and pledge

from its revenues a sum not in excess of \$300,000.00, annually, therefor, for a period not exceeding thirty years.

*Be it Enacted by the Legislature of Alabama:*

Section 1. The State Highway Department is hereby authorized, directed and empowered to lease, buy, condemn, otherwise acquire, and/or free any and all toll bridges within the State of Alabama, by and with the approval of the Governor.

Section 2. The said State Highway Department may lease from the Alabama State Bridge Corporation all the toll bridges and property in the State of Alabama on such terms and conditions as may be mutually agreed upon by and between the said State Highway Department, with the approval of the Governor, and the Alabama State Bridge Corporation. In the event said lease is consummated by and between the State Highway Department and the Alabama State Bridge Corporation for the lease of the bridges and properties owned by it, then and in that event the lease shall specify that the State Highway Department shall at all times keep repaired and in good condition each and every bridge and other property so leased as a part of the Public Highway System of the State of Alabama, without expense to the Alabama State Bridge Corporation, and shall also contain the provision that in case of destruction of any of such properties or bridges during the term of said lease the State Highway Department shall construct such properties or bridges as are destroyed and this in addition to any annual rental provided for in said lease. Said lease shall also provide that said property shall be used without the collection of tolls or charges from the public for the use of said property and bridges.

Section 3. That the said State Highway Department, by and with the consent of the Governor, may buy any and all toll bridges within the State of Alabama upon such terms and on such conditions as may be mutually agreed upon by and between the parties to said contract or purchase, and when said bridges are bought they shall be free bridges and a part of the Public Highway System of the State of Alabama without charge or fee.

Section 4. The State Highway Department is authorized, empowered and directed to take such other methods, means or manner of acquiring all the toll bridges within the State of Alabama, and rendering the same free and a part of the Public Highway System of the State of Alabama, and to this end the State Highway Department is hereby authorized and empowered, with the approval of the Governor, to make, enter into, and execute any and all contracts or agreements necessary for the accomplishment of the purposes of this Act.

Section 5. In the event that the said State Highway Department is not able to lease, buy or otherwise acquire for the pur-



pose of freeing any or all of the toll bridges within the State of Alabama, then and in that event the State Highway Department is hereby authorized, empowered and directed to condemn any and all toll bridges within the State of Alabama, and to this end to exercise all and singular the lawful and constitutional rights of the State or any public corporation by proper proceeding in any court of law in the State of Alabama having jurisdiction thereof the right of eminent domain in condemning and freeing any or all the toll bridges within the State of Alabama.

Section 6. To carry out the purposes of this Act the State Highway Department, with the approval of the Governor, is hereby authorized, empowered and directed to set aside and pledge from its revenues a sum not to exceed the amount of \$300,000.00 annually therefor, for a period of not exceeding thirty years.

Section 7. The powers given herein to lease, buy, condemn, otherwise acquire, and/or free any and all toll bridges in the State of Alabama, shall not be exercised, so far as the bridges now belonging to the Alabama State Bridge Corporation, until the bonds now outstanding against said bridges shall have been refunded at a rate of interest not to exceed 4%.

Section 8. All laws and parts of laws in conflict with the provisions of this Act be and the same are hereby expressly repealed.

Section 9. This Act shall take effect immediately upon its passage and approval by the Governor.

Approved July 10, 1935.

No. 220)

(H. 275—Coleman

## AN ACT

To Provide for the Incorporation, Organization, and Regulation of Mutual Cooperative Marketing and Purchasing Corporations or Associations of Agricultural Products in this State, and to Give to such Corporation or Association Certain Rights, Privileges, and Powers, and to Repeal Article 21 of Chapter 274 of the Code of 1923.

*Be it Enacted by the Legislature of Alabama:*

Section 1. PURPOSES OF ARTICLE. That the purposes of this article are to promote the general welfare of agriculture; to enable producers of agricultural products, whether in the State of Alabama or not; to cooperate in the production, processing, packing, distribution, financing and marketing of agricultural products, and in the manufacturing, supplying, or selling of machinery, equipment, or supplies used in connection with the production of said agricultural products or in the financing of the above enumerated activities; to enable such producers to organize incorporated associations with or without capital stock and not for

profit but for service to their members by the organization and operation of such corporations by a simplified and inexpensive procedure for the promotion and accomplishment of such cooperative and the general welfare of agriculture.

**Section 2. HOW ASSOCIATIONS MAY BE FORMED.** Five or more producers of agricultural products, whether in the State of Alabama or not, who may desire that they, their associates and successors, shall come under this article and enjoy its benefits may enter into Articles of Association and Incorporation which shall set forth the name of the organization, the period of its existence, its domicile, and the purposes for which it was formed, and that said association is to be organized or operated under this Article. The Articles must be subscribed by the incorporators and acknowledged by one of them before an officer authorized by the law of this State to take and certify acknowledgments of Deeds and Conveyances, and shall be filed in accordance with the provisions of the general corporation law of this state. When so filed the said Articles of Incorporation, or certified copies thereof, shall be received at all the courts of the State and other places as prima facie evidence of the facts contained herein, and the due incorporation of such association.

**Section 3. ORGANIZATION. BY-LAWS.** A majority of the organizing members named in the Articles, at a time and place agreed upon in writing by all the said organizers, or when and where all are present, or upon call of a majority of such organizers upon five days' notice thereof, in writing, giving the time, place and purposes of the meeting, mailed or delivered by hand to all of the other said organizing members, may make permanent organization of such corporation and adopt by-laws for the same, which by-laws may thereafter be amended or repealed by a majority of the members of such incorporated association in the manner provided in this Article and the by-laws. At such organization meeting the members of the Board of Directors and such officers, as provided for herein and in the by-laws, shall be elected. Each association incorporated under this article must within thirty days after its incorporation adopt for its government and management a code of by-laws not inconsistent with the powers granted in this Article.

**Section 4. BOARD OF DIRECTORS.** The affairs of such incorporated association shall be conducted, controlled, and managed by a Board of Directors, of such number, not to be less than five, and with such terms of office as may be provided by the By-Laws. The said Directors shall be elected by the members or stockholders of the association from their own number. An association may provide a fair remuneration for the time actually spent by its officers and directors in its service. No directors, during the term of office, shall be a party to a contract for profit with

the association differing in any way from the business regulations accorded regular members or holders of stock of the association.

Section 5. OFFICERS—ELECTION AND DUTIES. The Board of Directors shall elect from their number a President and one or more Vice-Presidents. They shall also elect a Secretary and a Treasurer who need not be directors, and they may combine the two latter offices and designate the combined office as Secretary-Treasurer. The duties of said officers shall be those usual to like officers in corporations and such other additional duties as may be designated in the by-laws.

Section 6. VOTING BY MAIL. The by-laws may provide among other things for voting of the members by mail and/or by proxy in writing, and for membership fees and dues, and shall provide how membership in the incorporated association may be acquired and lost.

Section 7. MEMBERSHIP. Under the terms and conditions prescribed in its by-laws an association may admit as members or issue common stock or certificates of membership only to persons engaged in the production of agricultural products including the lessees and tenants of land used for the production of such products, and lessors and landlords who receive as rent part of the crops raised on the leased premises. If a member of a non-stock association be other than a natural person, such member may be represented by individual, associate, officer, manager, or member thereof duly authorized in writing. All membership shall be personal to the member and equal in right, and shall not be transferable, assignable, vendable, inheritable, devisable or seizable, and each member shall have one vote only.

Section 8. ASSOCIATIONS MAY BE ORGANIZED WITH CAPITAL STOCK. Such incorporated associations may be organized with capital stock at the option of the organizers; and which shall in that event be organized by the same method and for the same recording fee as in the case of those associations organized without capital stock, except that the Articles of Association shall set forth also that the association is organized with capital stock, and the amount of capital stock authorized with particulars as to the class or classes thereof and the par value of shares. There shall be no individual liability on the part of share holders, members, officers, or directors for the obligations of the Corporation. The Articles of Association may provide for preferred stock as well as common stock but all shares shall have a definite par value, and all shares of the same class shall have the same par value. If so divided the Articles of Incorporation must contain a statement of the number of shares of stock to which preference is granted and the number of shares of stock to which no preference is granted, and the nature and extent of the preference and privileges granted to each. No member or stockholder

shall be entitled to more than one vote irrespective of the number of shares of stock held by such member or stockholder. No stockholder shall hold more than twenty per centum of the common stock. Common stock shall be issued only to and held only by producers of agricultural products who make use of the service and facilities of the association, or to agricultural associations, organizations, federations, or corporations organized under this Article, or whose purposes and operations are in harmony with the purposes of this article. But the Articles of Association may limit the ownership of stock to such producers of agricultural products. Dividends upon the capital stock shall not be declared or paid in excess of eight per centum per annum. If any shareholder shall cease to be eligible to hold his shares or shall die, or shall be dissolved, and if his shares be not promptly transferred to some producer or organization eligible to hold the same, the association shall take up such shares at par value or at the option of the association at appraised value, such value to be conclusively fixed by the Board of Directors of the Association, and the association may pay therefor in cash or by certificate of indebtedness to be thereafter paid from the income of the association. If any shareholder shall attempt to transfer his shares except as permitted, such shares may at the option of the association be taken up in the case of the death of a shareholder.

Section 9. POWERS OF ASSOCIATION. Such incorporated association shall have the power to contract and be contracted with, borrow and lend money, issue notes, bonds, and other obligations, and secure the payment of same by mortgage or otherwise, buy, contract for, own, sell, convey, pledge, mortgage and otherwise have, use and dispose of property of all kinds, insofar as not prohibited by law; to promote and carry out the purpose of this article to market the agricultural products of its members, cooperatively in pools or otherwise and collect for the same; to purchase such products from its members; advance money upon such products to its members, to act as agents for its members, to process, condition, pack, store and otherwise safeguard, care for and make ready for market the agricultural products of its members, to purchase for and distribute to its members and purchase and sell to its members seed, plants, fertilizers, machinery, implements, live stock, feed, chemicals, foodstuff, materials, supplies, packages, container, wrappings, labels, tags and any other goods, wares or merchandise necessary or useful in the production, processing, packing, storage, distribution and marketing of agricultural products; to erect, buy, own, rent, operate, manage and control all plants, properties, machinery and installations necessary or useful in processing, conditioning, packing, manufacturing, storing, shipping, distributing and marketing of such products of its members, and to render to its members farm business service. In

addition to the foregoing, the articles of incorporation of any association incorporated hereunder many contain any provision consistent with law with respect to management, regulation, government, financing, indebtedness, membership, the establishment of voting districts and the election of delegates for representative purposes, the issuance, retirement, and transfer of its stock, if formed with capital stock, or any provisions relative to the way or manner in which it shall operate or with respect to its members, officers or directors and any other provisions relating to its affairs. The powers herein granted shall be possessed by an association or federation organized hereunder fully and completely, whether specified in the articles of association. Such incorporated association may render the services mentioned in this section to non-members thereof as well as to members, provided that no such incorporated association shall deal in the agricultural products of non-members to an amount greater in value than such as are handled by it for members, and that no such incorporated association shall purchase supplies and equipment for, or render farm business service to non-members in an amount greater in value than such as are purchased for or rendered to members. All business transacted by any cooperative association for or on behalf of the United States or any agency or instrumentality thereof shall be disregarded in determining the volume of member and non-member business transacted by such association.

Section 10. ASSOCIATIONS MAY FEDERATE. Such associations incorporated thereunder may in carrying out their purposes become members of and enjoy the facilities and corporation of any federation whose members are agricultural societies, organizations or associations whose purposes and operations are in any way promotive of and not inconsistent with the purpose of this article.

Section 11. HOW FEDERATION ORGANIZED AND MANAGED. Five or more associations or corporations organized under this article, or whose purposes and operations are in any way promotive of, and not inconsistent with, the purposes of this article, whether incorporated hereunder or not may organize and incorporate a federation of such incorporated associations as members thereof, such incorporated federation to be managed by a board of directors to be composed of representatives of such constituent member associations, the articles of association and incorporation for such federation to contain the names of the constituent member associations, and the signatures thereto to be an executive officer of each of the constituent associations and the other procedure and details of incorporation shall be the same as herein provided for the incorporation of the constituent incorporated associations and the organization meeting and adoption of by-laws shall be by representatives chosen by the respective consti-

tuent members for that purpose, one for that purpose, one for each member, and in the organization and management of such federation each constituent member shall be entitled to one vote only, and if any constituent member has more than one representative, as members of the board of directors of said federation such representatives as directors shall jointly have one vote only, it being intended that such a federation may be incorporated hereunder as aforesaid for the purposes and with all the rights and powers herein given to associations of producers of agricultural products hereunder. After such federation has been organized and incorporated as provided herein, agricultural societies, organizations, associations or corporations, whose purposes and operation are in any way promotive of, and not inconsistent with, the purposes of this article, whether incorporated under this article or not, and which are accepted by the federation, may become members of such federation, and any such federation may limit its membership to associations incorporated under this article. Such federation may be organized with capital stock at the option of the organizing associations, and in that event the provisions of this article applying to capital stock organization of incorporated associations shall apply also to such federation, and the management shall be vested in a board of directors of such number as the by-laws may provide, elected by the shareholders.

Section 12. **POWERS OF FEDERATION.** Any such federation incorporated hereunder for the purpose of carrying out the purposes of this article and the rendition of services to its constituent members and their members shall have all the rights, powers, privileges and immunities herein given its constituent members as an incorporated association hereunder. The members of the constituent members of such federation shall be treated as members of the federation to the extent that services rendered to them by the federation shall be considered to be rendered to its own members.

Section 13. **CHARGES FOR EXPENSES AND CREATING RESERVE.** Such incorporated association may make charges to its members and deductions from the proceeds of their products for services rendered to them for the purpose of paying the expenses or operation and the maintenance and development of such association, and for the creation and maintenance of reserves for the purpose of paying expenses, retiring obligations acquiring, maintaining and operating property necessary or useful in carrying out the purpose of this article and for caring for contingencies, and such reserves may be used or distributed as may be deemed proper by the Board of directors under the by-laws and such corporation may make patronage dividends or distributions to its members and may do any and all things not unlawful in carrying out the purposes of this article, and shall have and en-

joy all the rights, privileges and immunities of other corporations not inconsistent with this article.

**Section 14. CERTAIN SUITS AUTHORIZED.** Such incorporated associations may sue and be sued; and may collect, sue for and realize on claims for the purchase money of products sold by it for its members and/or non-members, and on claims for freight over-charges on, and for loss and damage to, shipments made by it for its members and/or non-members for the use and benefit of such persons.

**Section 15.** Any corporation or association organized hereunder shall pay to the State the annual permit fee of ten dollars now required by law, and shall pay all ad valorem taxes on its real and personal property, except that all cotton and all other agricultural products which have been raised or produced in the State of Alabama, title to which may be held by such corporation or association in its own right or for the use and benefit of its members, and all goods and articles purchased or acquired by such corporation, whether in or out of the State, for its own use or for the use and benefit of its members for strictly agricultural or farm purposes in this State, shall, so long as held by such corporation or association, be exempt from taxation; nor shall such corporation be liable for any other license or privilege fee or tax for the purpose of engaging in or transacting business, or otherwise, in this State.

**Section 16. DEFINITIONS.** Producers of agricultural products herein mentioned shall include individual persons, partnerships, associations and corporations who produce such products either directly or as landlords, tenant or share-cropper. Agricultural products as herein defined shall include the products of field, pasture, meadow and garden, and fruits, melons, berries, nuts and vegetables, live stock, poultry and poultry products, dairy products and all other things commonly known as agricultural products.

**Section 17.** That Article 21 of Chapter 274 of the Code of Alabama 1923 be and the same is hereby repealed, this Act being intended as a substitute therefor. But this Act shall not amend, repeal, or in any wise affect the provisions of Article 20 of Chapter 274 of said Code, nor any corporation or association formed thereunder.

**Section 18.** Existing associations may come under this Act. Any cooperative association already in existence may by majority vote of the stockholders or its members be brought under the provisions of this Act by adopting the restrictions provided herein and complying with the requirements of this Act.

**Section 19. FEES FOR FILING ARTICLES OF INCORPORATION.** For filing articles of incorporation, an association organized hereunder shall pay five dollars to the probate judge in

whose office the same is filed; the secretary of state for the use of the state shall be paid five dollars for filing certificate of incorporation forwarded by probate judge as provided by law. And for filing an amendment to the articles, two and one half dollars.

Section 20. CONSTITUTIONALITY. If any section or provision or part of this act shall be declared unconstitutional for any reason the remainder of the act shall not be affected thereby.

Approved July 17, 1935.

No. 221)

(H. 276—Coleman

### AN ACT

To provide for the dissolution of cooperative marketing corporations or associations, or of cooperative marketing and purchasing corporations or associations heretofore or hereafter organized under the laws of this State.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That any cooperative marketing corporation or association, or mutual cooperative marketing or purchasing corporation or association, heretofore or hereafter organized under the laws of this State, may be dissolved in the mode and manner following: (a) In any mode or manner now provided by law in this State for the dissolution of corporations; or (b) By proceedings in the Circuit Court, sitting in equity, or court of like jurisdiction, in the county wherein the corporation or association was organized, under its statutory or general equity jurisdiction; or (c) By bill or petition in the Circuit Court, sitting in equity, or other court of like jurisdiction, in the county wherein the corporation or association was, or may be organized, in the manner hereinafter in Sections 2 and 3 provided.

Section 2: If the Board of Directors, or other governing body, shall deem it advisable to dissolve such corporation or association, and shall adopt a resolution to that effect, at any regular meeting of the Board or other governing body, or at any special meeting called for that purpose, thirty (30) days notice of which shall have been given each member of such Board, or other governing body, such resolution to be adopted by a vote of not less than two-thirds of its members, and spread upon the minutes of such Board or other governing body, such members so voting for such dissolution may file a bill in their name and in the name of the corporation or association, against the remaining members or stockholders of such corporation or association, in said Circuit Court, in Equity, for the purpose of effectuating such dissolution. But, if it shall be made to appear to the Court, or to the Judge thereof, that the stockholders or members of such corporation or association are,



in the judgment of the Court or Judge, so numerous as to render it impracticable or inexpedient to bring them all before the court, and in the judgment of the Court or Judge, a sufficient number, not less than ten (10) representative stockholders or members of such corporation or association are made defendants to such bill, such Court or Judge may make an order directing personal service on the defendants named, and that publication in such manner and form as the Court or Judge may prescribe, be made as to all other members and parties interested once a week for four consecutive weeks in some newspaper of general circulation published in the county wherein such bill is filed. If upon the final hearing, such court shall find that a continuance of such corporation is impracticable, or that it will be in the interest of the corporation or association that it be dissolved, it may make and enter a decree dissolving said corporation, and upon such dissolution, may direct the business and affairs of said corporation to be wound up by the Board of Directors or other governing body of said corporation or association under the supervision and direction of the Court; or the Court may in its discretion, appoint a receiver for that purpose. Such Court may make all such orders and decrees as may be deemed necessary and proper to effectuate such dissolution, the winding up of the business of the association or corporation, and the final disposition of the assets thereof, if any.

Section 3: If the corporation or association has ceased business, and become and remained inactive in the transaction of its business affairs for twelve (12) months or more, or if it has no Board of Directors, or other governing body, then in that event, such bill for dissolution may be filed by and on behalf of ten (10) or more stockholders or members of such corporation or association, and in the name of such corporation or association, in the manner and form provided for in Section 2 hereof, and the Court may make such order or decree thereon as in said Section authorized and provided.

Approved July 17, 1935.

No. 222)

(H. 277—Coleman

# AN ACT

To Amend Sections 7131, 7133, 7134, and 7151 Of The Code Of Alabama of 1923.

*Be it Enacted by the Legislature of Alabama:*

(1) That section 7131 of the Code of Alabama of 1923 be amended to read as follows: **POWERS OF THE ASSOCIATION**—Each association incorporated under this article shall have the following powers: (a) To engage in any activity in connection with the marketing, selling, harvesting, preserving, drying, pro-

cessing, canning, packing, storing, handling, ginning or utilization of any agricultural products produced or delivered to it by its members; or the manufacturing or marketing of the by-products thereof; or in connection with the purchase, hiring, or use by its members of supplies, machinery, or equipment; or in the financing of any such activities or in any one or more of the activities specified in this section. Each association incorporated under this article may render the services mentioned in this section to non-members thereof as well as to members, provided that no such incorporated association shall deal in the agricultural products of non members to an amount greater in value than such as are handled by it for members, and that no such incorporated association shall purchase supplies and equipment for or render farm business service to non members in an amount greater in value than such as are purchased for or rendered to members. All business transacted by any cooperative association for or on behalf of the United States or any agency or instrumentality thereof shall be disregarded in determining the value of member or non-member business transacted by such association. (b) To borrow money and to make advances to members. (c) To act as the agent or representative of any member or members in any of the above mentioned activities. (d) To purchase or otherwise acquire, and to hold, own, and exercise all rights of ownership in, and to sell, transfer, or pledge shares of the capital stock or bonds of any corporation or association engaged in any related activity or in the handling or marketing of any of the products handled by the association. (e) To establish reserves and to invest the fund thereof in bonds or such other property as may be provided in the by-laws. (f) To buy, hold and exercise all privileges of ownership over such real or personal property as may be necessary or convenient for the conducting and operation of any of the business of the association or incidental thereto. (g) To establish, secure, own and develop patents, trade-marks and copyrights. (h) To do each and everything necessary, suitable or proper for the accomplishment of any one or more of the objects herein enumerated; or conducive to or expedient for the interest or benefit of the association; and to contract accordingly; and, in addition, to exercise and possess all powers, rights and privileges necessary or incidental to the purpose for which the association is organized or to the activities in which it is engaged; and in addition, any other rights, powers, and privileges granted by the laws of this state to ordinary corporations, except such as are inconsistent with express provisions of this article, and to do any such thing anywhere. (i) To have a corporate seal. (j) To own, buy, and sell all kinds of property. (k) To sue and be sued.

BE IT FURTHER ENACTED BY THE LEGISLATURE OF ALABAMA:

(2) That section 7133 of the Code of Alabama of 1923 be amended so as to read as follows: **ARTICLES OF INCORPORATION; WHAT SHALL CONTAIN.**—Each association formed under this article must prepare and file articles of incorporation, setting forth: (a) The name of the association. (b) The purposes for which it was formed. (c) The place where its principal business will be transacted. (d) The term for which it is to exist. (e) The number of directors thereof which must not be less than five and may be any number in excess thereof, and the term of office of such directors; and the names and addresses of the persons who are to serve as incorporating directors until their successors are elected and qualified. (f) If organized without capital stock, whether the property rights and interest of each member shall be equal or unequal; and if unequal, the articles shall set forth the general rule or rules applicable to all members by which the property rights and interests, respectively, of each member may and shall be determined and fixed; and the association shall have the power to admit new members who shall be entitled to share in the property of the association with the old members in accordance with such general rule or rules. (g) If organized with capital stock, the amount of such stock and number of shares into which it is divided and the par value thereof. The capital stock may be divided into preferred and common stock. If so divided, the article of incorporation must contain a statement of the number of shares of stock to which preference is granted and the number of shares of stock to which no preference is granted and the nature and extent of the preference and privileges granted to each. The articles must be subscribed by the incorporators and acknowledged by one of them before an officer authorized by the law of this state to take and certify acknowledgements of deeds and conveyances; and shall be filed in accordance with the provisions of the general corporation law of this state. When so filed the said articles of incorporation or certified copies thereof, shall be received in all the courts of this state, and other places as prima facie evidence of the facts contained therein, and of the due incorporation of such association.

**BE IT FURTHER ENACTED BY THE LEGISLATURE OF ALABAMA:**

(3) That section 7134 of the Code of Alabama of 1923 be amended so as to read as follows: **AMENDMENT TO ARTICLES OF INCORPORATION**—The articles of incorporation, or charter of any cooperative or mutual association of farmers heretofore or hereafter organized under the provisions of this article, may be altered or amended at any regular meeting of the members or at any special meeting called for that purpose, provided a quorum be present as defined in the By-laws or other governing rules. The amendment must first be approved by two thirds of the Directors or other governing body and then adopted

by vote of two thirds of the members present and voting at the meeting. Amendments to the articles of incorporation, when so adopted, shall be filed in accordance with the provisions of the general corporation laws of the State.

BE IT FURTHER ENACTED BY THE LEGISLATURE OF ALABAMA:

(4) That section 7151 of the Code of Alabama of 1923 be amended so as to read as follows: EXISTING CORPORATIONS MAY COME UNDER THIS ARTICLE—Any association already in existence may by a vote of two thirds of the directors or other governing body and then adopted by vote of two thirds of the members present and voting at the meeting be brought under the provisions of this article adopting restrictions provided herein and complying with requirements of this article.

Approved July 17, 1935.

No. 223)

(H. 278—Coleman

#### AN ACT

To authorize cooperative agricultural associations organized under the laws of this State to acquire and hold stock in the New Orleans Bank for Cooperatives and in the Central Bank for Cooperatives and to authorize eligible corporations to acquire and hold stock in production credit associations.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That all cooperative agricultural associations of any kind or character whatsoever, heretofore or hereafter organized under the laws of the State of Alabama, are hereby authorized and empowered to purchase, or otherwise acquire, and to hold stock in the New Orleans Bank for Cooperatives and in the Central Bank for Cooperatives in accordance with the provisions of the farm credit act of 1933 as heretofore amended and as it may hereafter be amended by the Congress of the United States.

Section 2. That all corporations, heretofore, or hereafter organized under the laws of the State of Alabama, which are eligible to borrow from production credit associations, are hereby authorized and empowered to purchase or otherwise acquire, and to hold stock in production credit associations in accordance with the provisions of the farm credit act of 1933 as heretofore amended and as it may hereafter be amended by the Congress of the United States.

Section 3. That this act take effect and be in force from and after its passage.

Approved July 17, 1935.

No. 224)

(H. 291—Welch)

## AN ACT

To amend Section 6824 of the 1923 Code of Alabama.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That Section 6824 of the 1923 Code of Alabama be amended so as to read: Section 6824 (3348): CONTRACTS OF INSANE PERSON VOID.—Except as provided in the preceding sections and except contracts of fire and tornado insurance wherein the insane person is the beneficiary, all contracts of an insane person are void, but he and his estate shall be liable for necessities furnished him, which may be recovered upon the same proof and upon the same conditions as if furnished to an infant.

Section 2. That all laws and parts of laws in conflict herewith are hereby repealed.

Approved July 17, 1935.

No. 225)

(H. 425—Denson)

## AN ACT

To create a State Toxicologist, to fix the duties and compensation of such toxicologist, and to make an appropriation to carry out the provisions of this act.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That there is hereby created the office of State Toxicologist.

Section 2. The State Toxicologist shall be appointed by the Attorney General upon the nomination of the State Chemist; and the State Toxicologist may be removed by the Governor only upon such proof as would authorize the impeachment of Circuit Solicitors under the laws of this State.

Section 3. The duties of the State Toxicologist shall be to make toxicological examinations or chemical analyses of any dead human bodies, any human foods, any human beverages, and any human medicines that are suspected of containing poisons or substances of harmful character; and the State Toxicologist shall make examinations of bloodstains or other stains of legal significance to the State of Alabama; and the State Toxicologist shall cooperate with the State Veterinarian in his investigations of deaths of domestic animals in cases of suspected poisoning of such animals; such examinations and analyses shall be made when so ordered by any Circuit Judge or Circuit Solicitor or the Commissioner of Agriculture in Alabama; and the State Toxicologist shall report his findings to the Circuit Judge and the Circuit Solicitor in

the Circuit from which the order comes. The State Toxicologist shall perform such other duties as are assigned by the Governor or the Attorney General of Alabama. It shall be the further duty of the State Toxicologist to prescribe and issue rules and regulations governing the taking and transmission to and from his office of any and all specimens of substances referred to in Section 3 of this Act. The State Toxicologist shall cooperate with the Coroners and County Solicitors of Alabama in their investigations of deaths from unnatural causes and shall within his discretion visit the scene of death for the purpose of securing medico-legal evidence for the State of Alabama.

Section 4. The State Toxicologist shall maintain an office and laboratory at Auburn, Alabama, and shall be furnished adequate quarters by the Alabama Polytechnic Institute for the conduct of his office and laboratory.

Section 5. The compensation of the State Toxicologist shall be Thirty Six Hundred Dollars (\$3600.00) per annum payable monthly at the rate of Three Hundred Dollars (\$300.00) on his own warrant drawn on the State Treasurer. The State Toxicologist shall be furnished with an office and laboratory at the expense of the State, and shall also be allowed all necessary expenses for the equipment and conduct of his office and laboratory, including stenographic and laboratory assistance, and such expenses that may be incurred from traveling within or without the State for the purpose of carrying out the provisions of this Act. Such expenses are to be paid by warrants approved by the Governor of Alabama.

Section 6. There is hereby appropriated out of the General Fund of the State of Alabama, not heretofore appropriated, the sum of Eighty Five Hundred Dollars (\$8500.00), per annum for the purpose of carrying out the provisions of this act, provided that the expenses of the State Toxicologist, including the salary and traveling expenses of said toxicologist and other expenses of maintaining his office and laboratory, shall not exceed Eighty-Five Hundred Dollars (\$8500.00) per annum. And the appropriation herein above made, less the actual expenses herein above defined, shall inure to the benefit of the General Fund of the State of Alabama.

Section 7. If any section, clause, paragraph or provision of this Act shall be held unconstitutional, such holding shall not affect any part or all of the remainder of said Act which is not in itself unconstitutional.

Section 8. All laws and parts of laws in conflict or inconsistent with the provisions of this Act are hereby expressly repealed.

Section 9. This Act shall go into effect immediately upon its passage and approval by the Governor of Alabama.

Approved July 17, 1935.

## AN ACT

To provide for and authorize creation and incorporation of a Commission to be known as the Alabama Oyster Commission for the purpose of preserving the oyster and shrimp life in the public waters of this State and to increase and improve the supply thereof and to prevent undue or unnecessary depletion thereof; to prescribe its powers and duties; to provide for securing necessary funds by means of grants or loans for such purpose; authorizing it to issue bonds and providing for the payment of such bonds; to prescribe the rights and powers of the purchasers of any bonds issued.

*Be it Enacted by the Legislature of Alabama:*

Section 1. This Act may be known and referred to as the Alabama Oyster Commission Act.

Section 2. That the creation and incorporation of a Commission are hereby authorized, for the purpose of preserving oyster life in the public waters of this State and to increase and improve the supply thereof, and to prevent undue or unnecessary depletion thereof. Said Commission shall consist of five members, one of whom shall be the Commissioner of Game and Fisheries, who shall be chairman of the Commission. The associate members of the Commission shall be duly qualified to hold office under the Constitution and laws of Alabama and shall be appointed by the Governor of the State and shall be deemed to take office as of the date of appointment. One of the associate commissioners authorized to be appointed by the Governor shall be a resident elector of Baldwin County, who is thoroughly familiar with the oyster industry, and one of said members shall be a resident elector of Mobile County, who is thoroughly familiar with the oyster industry. One member shall hold office for a term of two years from the date of appointment, one member shall hold office for a term of three years from the date of appointment, one member shall hold office for a term of four years from the date of appointment, one member shall hold office for a term of five years from the date of appointment, and the Governor shall designate the term of office of each member appointed. Their successors shall be appointed in like manner for a term of five years and vacancies in the office of such Commission occurring otherwise than by expiration of office shall also be filled by the Governor by appointment for the unexpired term. The Governor may remove any member of the Commission for inefficiency, neglect of duty or misconduct in office, giving him a copy of the charges against him and an opportunity of being heard in person or by counsel in his defense upon not less than fifteen (15) days' notice. The power of the Commission shall be vested and exercised by the majority of the members of the

Commission then in office. The associate members of the Commission shall not be entitled to compensation for their services, but shall be entitled to reimbursement for all expenses incurred in connection with the performance of their duties.

Section 3. Promptly after their appointment the Commission shall meet to organize. The Commission may elect such other officers and appoint such agents and employees as it deems necessary, and may delegate to one or more of its members, officers, agents or employees such powers and duties as it deem proper.

Section 4. The Commission provided for by this Act may become a public corporation in perpetuity under its corporate name, and shall under that name be a body politic and corporate, with power of perpetual succession, and with the power and authority hereinafter defined, by proceeding according to the provisions of this Act.

Section 5. To become a corporation the Commission shall file with the Secretary of State an application showing the names and terms of office of the members of the Commission, the name which is proposed for the corporation; the location of the principal office of the proposed corporation and any other matter relating to the incorporation which the applicants may choose to insert not inconsistent with the Constitution and laws of the State of Alabama. The application shall be subscribed and sworn to by each of the members of the Commission before an official authorized by the laws of the State of Alabama to take and certify oaths, who shall certify upon the application that he personally knows the applicants and believes them to be members of the Alabama Oyster Commission as asserted in the application, and that they each subscribed and swore thereto in the officer's presence. There shall be attached to said application a copy of the by-laws of the Commission.

Section 6. The Secretary of State shall examine the application and if he finds that the name proposed for the corporation is not identical with that of a person or of any other corporation in this State, or so nearly similar thereto as to lead to confusion and uncertainty, he shall receive and file it, and shall record it in an appropriate book of record in his office.

Section 7. When the application has been made, filed and recorded, as herein provided, the applicants shall constitute a corporation under the name proposed in the application; the Secretary of State shall make and issue to the applicants a certificate of incorporation, pursuant to this article, under the seal of the State and shall record the same with the application.

Section 8. The corporate purpose of the Commission is to encourage and promote the fullest possible use and development of the oyster industry within the jurisdiction of the State of Ala-



bama and to preserve the oyster life in the public waters of this State, and to increase and improve the supply thereof, and to prevent undue or unnecessary depletion thereof.

Section 9. The Commission when incorporated shall be vested with all powers necessary or requisite for the accomplishment of its corporate purpose and capable of being delegated by the Legislature of the State of Alabama; and no enumeration of particular powers hereby granted shall be construed to impair any general grant of power herein contained, nor to limit any such grant to a power or powers of the same class or classes as those so enumerated.

Section 10. Subject only to the Constitution of the State of Alabama, the Commission shall have the power: (1) To sue and be sued. (2) To have a seal and alter the same at pleasure. (3) To acquire, hold and dispose of property, real and personal, tangible and intangible, or interests therein, in its own name, subject to mortgages or other liens or otherwise and to pay therefor in cash or on credit, and to secure and procure payment of all or any part of the purchase price thereof on such terms and conditions as the Commission shall determine. (4) To cause surveys to be made of the coastal regions of the State of Alabama for the purpose of determining the economic soundness of the development of the oyster industry in that location; to make plans and estimates of the cost of such developments and improvements and in connection therewith to enter on any lands, waters, and premises for the purpose of making such surveys, soundings and examinations. (5) To exercise all the power and authority now conferred on the Commissioner of Game and Fisheries, Commissioner of Conservation, Chief Oyster Inspector or other official under Chapter 47, Code of Alabama, 1923 (Sections 2724-2777) and by any other provisions of law now existing or hereafter adopted which relate to oysters or shrimp in the waters of the State of Alabama. (6) To execute all instruments necessary or convenient. (7) To borrow money and issue bonds and to provide for the rights of the holders thereof. (8) To accept gifts or grants of money or property, real or personal, and voluntary and uncompensated services from any person, federal agency or municipality. (9) To make any and all contracts necessary or convenient for the full exercise of the powers herein granted. (10) To do any and all acts and things herein authorized or necessary or convenient to carry out the powers expressly given in this Act under, through or by means of its own officers, agents and employees, or by contracts with any person, federal agency or municipality.

Section 11. In addition to the powers heretofore conferred, the Commission shall have power to lease to any citizen of Ala-

bama, or firm or corporation organized under the laws of the State and doing business within its limits for the purpose of oyster culture, any bottom of the waters of the State not a natural oyster bed or reef, in such areas and at such prices and under such conditions as the Commission may determine not inconsistent with the terms of this Act. Such persons, firms or corporations desiring to avail themselves of the privileges of leasing oyster bottoms shall make application in writing to the Commission, accompanied by such fee as may be prescribed by the Commission, whereupon a competent surveyor, selected by the Commission, at the expense of the applicant, shall stake off the parcel to be leased, forwarding a description thereof to the Commission. The Commission shall thereupon issue to said applicant a lease thereon, upon the payment in advance of the rental or lease price, which shall likewise be paid in advance at the beginning of each rental year thereafter during the continuation of the lease. The failure to pay the rental price or to conform to any conditions of the lease shall ipso facto cancel said lease and shall forfeit to the State the leased bottoms and all oysters thereon and upon said forfeiture the Commission is hereby authorized to lease the said bottoms to any qualified applicant therefor.

Section 12. For the purpose of developing and enlarging the oyster reefs and improving the oyster bottoms in the waters of Alabama the Commission is authorized to engage in the planting of seed oysters and shells, or other material, by contracting with owners of boats or other watercraft and equipment suitable for such purposes, or in any other practical manner. The Commission is likewise authorized to remove by means of power tongs or dredges, or otherwise oysters or shells from the waters of this State for the purpose of cultivating the now barren bottoms of this State. The Commission is also authorized to purchase seed oysters, oyster shells or other materials for such purposes. Provided that the price paid for planting seed oysters and oyster shells and other materials, and for the purchase thereof shall not exceed at any time the price paid by other States on the Gulf Coast.

Section 13. The Commission is authorized to permit any citizen of Alabama or firm or corporation organized under the laws of the State and doing business within its limits to take oysters from the oyster bottoms in the public waters of this State which the Commission is authorized by this Act to cultivate upon such terms and conditions as the Commission shall determine.

Section 14. All funds which the Commission shall derive through the leasing of oyster bottoms or from the cultivated oyster bottoms shall be used for the purpose of paying the principal and interest of any loans or bonds which the Commission may issue under the terms of this Act.

Section 15. The chairman of the Commission shall sign all leases authorized under this Act.

Section 16. The Commission shall have power and is hereby authorized from time to time to issue bonds in anticipation of its revenues, for any corporate purposes. Said bonds may be authorized by resolution or resolutions of the Commission, and may be issued in one or more series, may bear date or dates, mature at such time or times not exceeding forty years from their respective dates, bear interest at such rate or rates, not exceeding six per centum per annum, payable semi-annually, be in such denominations, be in such form, either coupon or registered, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, be declared or become due before the maturity date thereof, as such resolution or resolutions may provide. Said bonds may be issued for money or property (at public or private sale for such price or prices) as the Commission shall determine, provided, that the interest cost to maturity of the money or property (at its value as determined by the Commission, the determination of which shall be conclusive) received for any issue of said bonds, shall not exceed six per centum per annum, payable semiannually. Said bonds may be repurchased by the Commission out of any available funds at a price not to exceed the principal amount thereof and accrued interest, and all bonds so repurchased shall be cancelled. Pending the preparation or execution of definite bonds, interim receipts or certificates or temporary bonds may be delivered to the purchaser or purchasers of said bonds.

Section 17. Said bonds bearing the signature of officers in office on the date of the signing thereof shall be valid and binding obligations notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon shall have ceased to be officers. The validity of said bonds shall not be dependent on nor affected by the validity or regularity of any proceeding relating to the acquisition or improvement of the system or systems for which said bonds are issued. The resolution or resolutions authorizing said bonds may provide that the bonds shall contain a recital that they are issued pursuant to this Act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

Section 18. No holder or holders of any bonds issued under this Act shall ever have the right to compel any exercise of taxing power of the State or of any political subdivision thereof to pay said bonds or the interest thereon. Each bond issued under this Act shall recite in substance that said bond, including the interest thereon, is payable from the revenues pledged to the payment there-

of, and that said bond does not constitute a debt of the State.

Section 19. The Commission shall not be operated for gain or profit or primarily as a source of revenue to the State. The Commission shall, however, prescribe and collect reasonable rates, fees or charges for the services, facilities and commodities made available by it, and shall revise such rates, fees or charges from time to time whenever necessary so that the Commission shall be and always remain self-supporting, and shall not require appropriations by the State to enable it to carry out its purpose. The rates, fees or charges prescribed shall be such as will produce revenue at least sufficient to pay when due all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor.

Section 20. The State of Alabama does pledge to and agree with the holders of bonds issued by the Commission that the State will not limit or alter the rights and powers hereby vested in the Commission to fix and collect such rates, fees and charges as may be necessary or advisable in order to produce sufficient revenue to meet all expenses of maintenance and operation of its system or systems and to fulfill the terms of any agreements made with the holders of such bonds, or in any way impair the rights and remedies of the holders of such bonds, until such bonds together with interest thereon, and interest on any unpaid installments of interest, and all costs and expenses in connection with any suits, actions or proceedings by or on behalf of such bondholders are fully paid and discharged.

Section 21. In connection with the issuance of bonds or in order to secure the payment of its bonds, the Commission incorporated under this Act shall have power: (1) To pledge all or any part of its revenues. (2) To vest in a trustee or trustees the right to enforce any covenant made to secure, to pay, or in relation to its bonds, to provide for the powers and duties of such trustee or trustees, to limit the liabilities thereof, and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any amount or proportion of them may enforce any such covenant. (3) To make such covenants and to do any and all such Acts and things as may be necessary or convenient or desirable in order to secure its bonds or which, in the absolute discretion of the Commission, tend to make the bonds more marketable, notwithstanding that such covenants, acts and things may restrict or interfere with the carrying out of its corporate purposes; it being the intention hereof to give the Commission power to do all things in the issuance of bonds, and for their security, that a private business corporation can do under the general laws of the State.

Section 22. In addition to all other rights and all other remedies, any holders of bonds of the Commission, including a trustee for bondholders, shall have the right by mandamus or other suit, action or proceeding at law or in equity, to enforce his rights against the Commission, including the right to require the Commission and such board to fix and collect rates and charges adequate to carry out any agreement as to, or pledge of, the revenues produced by such rates or charges, and to require the Commission to carry out any other covenants and agreements with such bondholder and to perform its and their duties under this Act.

Section 23. In the event that the Commission shall cease to exist, all of its assets remaining after all of its obligations and liabilities have been satisfied or discharged shall pass to and become the property of the State.

Section 24. If any provision of this Act, or the application of such provision to any person, body, or circumstance shall be held invalid, the remainder of this Act, or the application of such provision to persons, bodies, or circumstances, other than those as to which it is held invalid, shall not be affected thereby.

Section 25. Nothing in this Act shall be construed so as to in any way interfere with riparian rights under existing laws.

Section 26. All laws or parts of laws inconsistent with or in conflict with any provision of this Act are hereby expressly repealed.

Approved July 17, 1935.

No. 228)

(H. 731—Walker

## AN ACT

To protect the rights of the public in all matters now pending, or which may hereafter arise involving any public utility; to provide for an appeal to the courts for, or on behalf of the public on all rulings, orders or decisions of the public service commission; to give each patron of any public utility all of the rights and privileges of any litigant now provided or which shall hereafter be provided by the constitution and laws of this State; to authorize the appointment by The Governor of a Peoples Public Service Attorney, and to prescribe his duties and fix his compensation.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That every person, firm, corporation, co-partnership, association or organization who subscribes to or purchases from any public utility, or transportation company, transportation, products, or service of any description, shall be deemed a patron of such public utility, under the provisions of this Act.

Section 2. That in all matters which are now pending or which may hereafter arise involving any public utility, any patron of

such public utility shall have the right to appeal to the courts from the decision of the public service commission, and such appeal shall be governed by the laws, rules, regulations and practices now prevailing, or which may hereafter prevail, as to appeals by a public utility or transportation company, and that every patron of any public utility or transportation company may at all times avail themselves of any and all rights, privileges and benefits now enjoyed by public utilities, regarding prices, rates, services or practices, to the end that each side may enjoy equal rights in the matter of appeal. And every patron of any public utility or transportation company is hereby declared to have such a right and interest in any rate, service or practice, existing or proposed by such utility as will, and does invest him with all of the rights and privileges of any litigant now existing, or which may hereafter exist under the Constitution and laws of this State.

Section 3. That there shall be appointed a duly licensed Attorney, who shall be known as The Peoples Public Service Attorney. Such attorney shall be appointed by the Governor, and shall hold office at the pleasure of The Governor. It shall be the duty of the Peoples Public Service Attorney to represent any and all patrons of any public utility, who shall request his services, in any hearing before the public service commission, and in any court proceeding where there is an appeal either by the patron, or the public utility involved; and he shall do so without compensation on the part of the patron. The Peoples Public Service Attorney shall devote his entire time to the service of patrons of public utilities toward the settlement of differences by and between such patrons and public utilities. He shall maintain an office at the Capitol in Montgomery, Alabama at all times, and shall be available to any patron at all times, except when absolutely necessary for him to be away from his office in the performance of his duties as herein defined. The Peoples Public Service Attorney shall receive a salary, the amount of which shall be fixed by The Governor, but which amount shall in no event exceed Thirty Six Hundred Dollars (\$3600.00) per year, and shall be paid in twelve equal monthly installments out of the general funds of the State. In addition to said salary, such actual expenses as are necessarily incurred by reason of his leaving Montgomery, Alabama, in the performance of his duties as herein defined, shall be paid out of the general funds of the State.

Section 4. If any provision or clause of this act should be declared invalid, such invalidity shall not be construed to affect the portions of this act not so held invalid.

Section 5. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby expressly repealed.

Section 6. That this Act shall take effect immediately upon its passage and approval by The Governor.

Approved July 10, 1935.

No. 230)

(S. 101—Tucker

### AN ACT

To Authorize any person or owner of property to convey or devise any of his real estate or personal property to another in trust to receive and pay the profits and or income not to exceed Eighteen Hundred (\$1800.00) Dollars annually for the support and maintenance of any child, grandchild, or other relation by blood or marriage, with remainder as the grantor shall provide, during a period of time not exceeding the limits fixed by law as to perpetuities; and the property so conveyed or devised and the income or profits therefrom shall not be liable for or subject to be seized or taken in any manner for the debts of such child, grandchild, or other relation, whether the same be contracted or incurred before or after the grant.

*Be it Enacted by the Legislature of Alabama:*

1. It is lawful for any person or owner of property to convey or devise any of his real estate or personal property to another in trust to receive and pay the profits and or income not to exceed Eighteen Hundred (\$1800.00) Dollars annually for the support and maintenance of any child, grandchild, or other relation by blood or marriage, with remainder as the grantor or deviser shall provide, during a period of time not exceeding the limit fixed by law as to perpetuities; and the property so conveyed and the income or profits therefrom shall not be liable for or subject to be seized or taken in any manner for the debts of such child, grandchild, or other relation, whether the same be contracted or incurred before or after the creation of such trust.

2. That all laws in conflict or parts of laws in conflict herewith are expressly repealed.

3. That this Act shall take effect upon its passage and approval by the Governor.

Approved August 8, 1935.

No. 231)

(S. 102—Tucker

### AN ACT

To provide that if, under the terms of any annuity contract or policy of life insurance, or under any written agreement supplemental thereto, issued by any life insurance company, the proceeds, or any part thereof, are retained by such company at maturity, or otherwise, permission is expressly withheld by the terms of such contract, policy or supplemental agreement, no person entitled to any part of such proceeds, or install-

ments of interest due, or to become due thereon, shall be permitted to commute, anticipate, encumber, alienate or assign the same, or any part thereof, and that no such payment shall be in any way subject to such person's debts, contracts, or engagements, nor to any judicial process to levy upon or attach the same; and to provide, further, that no such company shall be required to segregate such funds, but may hold them as a part of its general corporate funds.

*Be it Enacted by the Legislature of Alabama:*

1. If, under the terms of any annuity contract or policy of life insurance, or under any written agreement, supplemental thereto, issued by any life insurance company, the proceeds, or any part thereof, are retained by such company at maturity, or otherwise, no person entitled to any part of such proceeds, or any installments of interest due, or to become due thereon, shall be permitted to commute, anticipate, encumber, alienate or assign the same, or any part thereof, if such permission is expressly withheld by the terms of such contract, policy or supplemental agreement; and if such contract, policy or supplemental agreement so provides, no payment of interest or of principal shall be in any way subject to such person's debts, contracts, or engagements, nor to any judicial process to levy upon or attach the same for payment thereof. No such company shall be required to segregate such funds, but may hold them as a part of its general corporate funds.

2. That all laws, or parts of laws, in conflict herewith are hereby expressly repealed.

3. That this act shall take effect upon its passage and approval by the Governor.

Approved August 9, 1935.

No. 235)

(S. 217—Thomas

AN ACT

To provide for the observance and celebration of the One Hundredth Anniversary of the Founding of Prattville, Alabama; to appoint a commission to carry out the purposes of this Act and to appropriate the sum of Five Thousand Dollars (\$5000.00) or so much thereof as may be necessary to pay the expenses of said celebration in the event that the Federal Congress shall pass an Act or Joint Resolution providing for the observance and celebration of said Anniversary.

WHEREAS, in 1835, a distinguished son and a distinguished daughter of an honored ancestry running back to the patriots of the American Revolution—Daniel Pratt of Temple, New Hampshire, and Esther Ticknor Pratt, his wife of Columbia, Connecticut, founded the City of Prattville, Alabama, and dedicated the remainder of their lives to the building of industries, homes, schools, and churches; and

WHEREAS, the lives and works of these New England patriots and their descendants have made a lasting impression upon their adopted state and have received national recognition and honor; and



WHEREAS, the city of Prattville and the County of Autauga have made plans for the building, equipment, and maintenance in perpetuo of a Daniel Pratt Memorial Public Library, an Esther Pratt Social Welfare Center, and a Daniel and Esther Pratt Vocational High School of Science under the supervision and control of the Daniel Pratt Centennial Memorial Foundation, as a State and National Memorial of enduring public service; and

WHEREAS, this honor to be done these noble American pioneers and patriots by such a national celebration and by such a permanent memorial of public service honors the State of Alabama and glorifies the United States in a spirit of national unity and good will, bearing the names of these New England patriots who devoted their talents, their wealth, and their lives to the building of their adopted States and our common Country: Now, Therefore,

*Be it Enacted by the Legislature of Alabama:*

Section 1. That there be, and is hereby, established a Commission to be known as The Daniel Pratt Centennial Celebration Commission For The State of Alabama, hereinafter referred to as The Alabama Commission, which shall unite with The Daniel Pratt Centennial Celebration Commission of the United States, established by An Act of the 74th Congress, to provide for the observance and celebration of the One Hundredth Anniversary of the founding of Prattville, Alabama, by these noble New England Patriots, This Alabama Commission shall be composed of thirty-two members, as follows: The Governor of the State of Alabama, Chairman, The Wife of the Governor of the State of Alabama, The Chief Justice of the Alabama Supreme Court, The President and two members of the State Senate, to be appointed by the President, one member being the Senator from the Autauga County District, The Speaker and two members of the House of Representatives, to be appointed by the Speaker, one member being the Representative from Autauga County, The President of the University of Alabama, The President of the Alabama Polytechnic Institute, The President of Alabama Woman's College, The Director of the Department of Archives and History, The State Superintendent of Education, The Mayor of Montgomery, The Mayor of Prattville, The Judge of Probate of Autauga County, Charles DeBardeleben, Henry DeBardeleben, Chas. B. Glenn, Grover C. Hall, Victor Hanson, Lister Hill, Member of Congress from the Montgomery District, Mr. and Mrs. Daniel Pratt, Mr. and Mrs. Marion Rushton, Erskine Ramsay, Carlie G. Smith, William Howard Smith, Henry J. Willingham, Hopson Owen Murfee, Director, who is also Director of the Commission for the United States and Director of the Daniel Pratt Centennial Memorial Foundation.

Section 2. It shall be the duty of the Alabama Commission in cooperation with the Commission for the United States, to prepare and carry out comprehensive plans for the observance and cele-

bration of the one hundredth anniversary of the founding of Prattville, Alabama, and the dedication of the Daniel and Esther Pratt Centennial Memorial.

Section 3. The Alabama Commission is authorized to appoint, prescribe the duties, and fix the compensation of a Director, who may be the same as the Director of the Daniel Pratt Centennial Memorial Foundation who is also Director of the Commission for the United States; and such other employees as may be necessary in the execution of its functions; and may authorize such expenditures, within the amount hereinafter authorized, as are necessary to carry out the intent and purposes of this resolution and Act of the Legislature.

Section 4. That there be and is hereby appropriated out of any funds in the Treasury not otherwise appropriated the sum of Five Thousand Dollars (\$5000.00) or so much thereof as may be necessary to carry out the purposes of this Act, the same to be paid out by the treasurer upon the proper warrant by the proper state officials, based upon duly verified accounts showing the actual expenditures made by the Commission for the State of Alabama provided for in this Act.

Section 5. The Alabama Commission shall cease to exist on the thirtieth day after the date of the expiration of the celebration.

Section 6. This act shall be contingent and operative upon the passage of the complementary Act of the Congress of the United States, embodied in the H. J. Res. 241, introduced by Congressman Hobbs of the Fourth Alabama District on April 9, 1935, "To provide for the observance and celebration of the one hundredth anniversary of the founding of Prattville, Alabama," or upon the passage by the said Congress of an Act or Joint Resolution having the same purposes as said H. J. Resolution 241.

Approved August 8, 1935.

No. 236)

(H. 300—Tolbert

### AN ACT

To Prohibit The Sale Of Barbitol, Sulphonethylemethane (Trional) Sulphomethane (Sulphonol), Diethylsulphon, Kiethylmethane (Tetronal), Paraldehyde And Choral Or Choral Hydrate Or Any Of Its Derivatives, Compounds Or Mixtures Of Any Of These Drugs Possessing Hynotic Properties Or Effects, Except Upon Prescriptions Of Lawfully Authorized Practitioners Of Medicine, Dentistry Or Veterinary Medicine.

*Be it Enacted by the Legislature of Alabama:*

Section 1. No person, firm or corporation shall sell, furnish or give away any barbitol, sulphonethylemethane (trional) sulphomethane (sulphonol), diethylsulphon diethylmethane (tetronal),

paraldehyde, and choral or choral hydrate or any derivatives, compounds or mixtures of any of the drugs possessing hypnotic properties or effects, except upon the original written order or prescription of a lawfully authorized practitioner of medicine, which order or prescription shall be dated and contained the name of the person for whom prescribed or if ordered by a practitioner of veterinary medicine it shall state the kind of animal for which ordered and shall be signed by the person giving the prescription or order.

Section 2. Any person violating any of the provisions of this Act shall be guilty of a misdemeanor and shall be fined not less than ten dollars (\$10.00) or more than five hundred dollars (\$500.00).

Section 3. All laws and parts of laws in conflict with the provisions of this act are hereby expressly repealed.

Approved August 8, 1935.

No. 237)

(S. 188—Simpson

### AN ACT

To amend An Act, entitled "An Act to Promote the Objects of the National Housing Act by authorizing banks, savings banks, trust companies, insurance companies and building and loan associations, to make loans pursuant to Titles I and II of the National Housing Act, and by authorizing banks, savings banks, trust companies, insurance companies, building and loan associations, to invest in mortgages insured, and in debentures issued by the Federal Housing Administrator, and to invest in securities of National Mortgage Associations," approved January 31, 1935, by adding thereto a section, permitting fiduciaries to retain for their individual account any service charge allowed by the National Housing Act.

#### *Be it Enacted by the Legislature of Alabama:*

That Section II of the Act entitled "An Act to promote the objects of the National Housing Act by authorizing banks, savings banks, trust companies, insurance companies and building and loan associations, to make loans pursuant to Titles I and II of the National Housing Act, and by authorizing banks, savings banks, trust companies, insurance companies, building and loan associations, to invest in mortgages insured, and in debentures issued by the Federal Housing Administrator, and to invest in securities of National Mortgage Associations" be and the same hereby is amended so as to include the following additional section:

Section 5. Any bank, savings bank or trust company purchasing, investing in, or otherwise holding in any fiduciary capacity for the benefit of any ward or other beneficiary, any mortgage loan insured under the terms of the National Housing Act, shall be entitled to receive and retain for its own individual or corporate

account any service charge allowed by said National Housing Act or by any regulations issued thereunder on account of the servicing of the insured mortgage loan. Such service charge shall be considered as a reimbursement to such fiduciary for the additional expense of handling for the mortgagor and the Federal Housing Administrator monthly collections on such mortgage loan and payments of taxes, insurance, and other charges on the property securing such loan as such Act and regulations may require.

Approved August 15, 1935.

No. 239)

(S-207—Swift

### AN ACT

To authorize the better maintenance of a full time County Health Officer and County Health Department within each County of Alabama.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That the County governing body of each County shall in its discretion be authorized to levy annually a special county tax (being a part of the general County tax of one-half of one per centum per annum) in an amount sufficient to establish and maintain a full time County Health Officer and County Health Department and for the prosecution of public health work within the County.

Section 2. That the proceeds of said tax, when levied and collected, shall be placed in a separate fund and shall be used for no other purpose except that for which said tax is levied and collected.

Section 3. That such tax and the proceeds thereof may be anticipated by temporary loan certificates, and, when anticipated, all of such proceeds shall be deposited in the special County Health fund, or shall be deposited to the credit of the State Health Officer, for the exclusive use of the maintenance of a full time County Health Officer and full time County Health Department within the County.

Section 4. That this Act is not exclusive, but is cumulative and remedial.

Section 5. That this Act shall not be construed to interfere with Counties now operating or desiring to operate under mandatory laws relating to full time health service.

Section 6. That this Act shall be in full force and effect upon its approval by the Governor.

Approved August 15, 1935.

No. 240)

(S. 226—Swift)

## AN ACT

To revise and amend an Act entitled "An Act to revise and amend Chapter 20 of the Code of 1907," Approved October 1st, 1923 relating to game and fish laws.

*Be it Enacted by the Legislature of Alabama:*

That "An Act to Revise and amend Chapter 20 of the Code of 1907," Approved October 1st, 1923, be revised and amended so as to read as follows:

Section 1. The Department of Game and Fisheries as created in the Act to revise and amend Chapter 20 of the Code of 1907, approved October 1st, 1923, shall hereafter be known by the title of "Department of Conservation of Game, Fish and Seafoods." The officer in charge thereof shall be known as the "Commissioner of Conservation of Game, Fish and Seafoods," and the Commissioner of Game and Fisheries shall hold the office of Commissioner of Conservation of Game, Fish and Seafoods the full term of six years to which the Commissioner of Game and Fisheries has heretofore been duly elected, or until his successor is selected and qualified. The Commissioner is hereby vested with the power to enforce and administer all laws providing for the preservation, protection, propagation and development of wild birds, wild furbearing animals, game, fish and salt water fish, shrimp, oysters and other shell fish, crustaceans, and all other species of wildlife within the State or within the territorial jurisdiction of the State, which have not been reduced to private ownership, except as otherwise provided.

Section 2. The Department of Conservation of Game, Fish and Seafoods, hereinafter referred to shall be named by the short title, "Department," the Commissioner of Conservation of Game, Fish and Seafoods shall hereinafter be named by the short title, "Commissioner," and the Conservation Board hereinafter provided for shall be known by the short title, "Board."

Section 3. The successor to the present Commissioner of Game and Fisheries shall be appointed by the Governor and shall hold office for a term of four years, beginning on the first Monday after the second Tuesday in January, 1937; and every four years thereafter the Governor shall appoint a successor to the Commissioner of Game and Fisheries, who, shall, in like manner hold his office for a period of four years, ending on the first Monday after second Tuesday in January, or until his successor is appointed and qualified. Any vacancy in the office shall be filled by appointment of the Governor, and the appointee shall hold for the unexpired term."

Section 4. The Commissioner shall be provided with adequate offices and museum space in the State Capitol, and he is hereby

authorized to employ a Chief Clerk, a Secretary to the Commissioner, one Stenographer, one combination Stenographer and File Clerk, one Assistant in Research and Statistics, and on the approval of the Governor such additional assistants as may be required from time to time for the successful operation of the Department.

Section 5. Before entering upon the discharge of his duties, the Commissioner shall take the oath of office as required by law for other State officers, and he shall be commissioned by the Governor as provided by law. He shall give bond in the sum of ten thousand (\$10,000.00) dollars with a surety company authorized to do business in this State, approved by the Governor and filed as the bonds of other State officers are filed, conditioned that he shall well and truly account for and apply all moneys which may come into his hands in his official capacity. The Commissioner may also require the person or persons employed by him and whose duty he may assign to handle State moneys collected by the Department to give bond in the sum of ten thousand (\$10,000.00) dollars with a surety company authorized to do business in this State, approved and filed as provided for the bond of the Commissioner. The premium on each such bond shall be paid out of the Game and Fish fund.

Section 6. The Commissioner shall keep a seal of office which shall be used to authenticate all papers and documents issued and executed by him as such officer, and he shall carefully keep and preserve all records of any and all officers and departments heretofore transferred by law to his office, and all records relating or pertaining to his office.

Section 7. The salary of the Commissioner and all other employees of the Department shall be fixed as hereinafter provided and shall be paid monthly out of the Game and Fish Fund, in the same manner as other State officers and employees are paid, and they shall be allowed reimbursement for actual expenses when traveling within or without the State in the discharge of the duties of their offices, said allowances to be payable out of the Game and Fish Fund. The expenses incurred for any of the above stated purposes shall be limited to the amount of money in the State Treasury to the credit of the Game and Fish Fund, and in no event shall the State pay any salary or expenses, or be liable in any manner therefor, except to the extent of such funds.

Section 8. There is hereby created a Conservation Board consisting of seven (7) members to be appointed by the Governor, whose terms of office shall be as follows:—One for a period of one year, one for two years, one for three years, one for four years, one or five years, one for six years, and one for seven years. At the expiration of the term of each member of said Board his successor shall be appointed by the Governor for a period of seven years.

The Commissioner shall be Chairman of said Board. Four members of the Board shall constitute a quorum and shall have full power to transact any and all business of said Board.

Section 9. The Governor shall within fifteen days after the passage of this Act appoint the members of the Board as herein provided, taking into consideration as equitably as may be the various localities of the State and the geographical location of the residence of each.

Section 10. Before any person may become eligible for appointment to membership on the Board he must have demonstrated through service his knowledge of and interest in the conservation, protection and development of the State's wildlife resources, and in making such appointment consideration shall be given to such qualifications as are herein set forth.

Section 11. The duties of the Board shall be:—On the call of the Commissioner, immediately following their appointment and on the first Mondays of January and July of each year, and at such other times as may be found necessary, to sit with the Commissioner and advise with him and assist him in formulating a State wildlife policy, to fix open seasons during which game birds, game and fur-bearing animals may be taken, to fix daily and season bag limits on game birds and game animals, to designate by name what species of fish shall be game fish, to fix daily creel limits on game food fishes, to regulate the manner, means and devices for catching or taking game food fishes, and manner, means and devices for catching or taking all other species of fish not designated as game fish, to see that the salaries paid officials and employees of the Department are fixed at amounts which must be approved by the Governor and are in all respects within the limits now fixed by the so-called Lapsley-Lusk Act and all other provisions of law heretofore or hereafter enacted, to close the season on any species of game in any county or area when, upon a survey by the Department, it is found necessary to the conservation and perpetuation of such species and reopen such closed season when it is deemed advisable, to designate by name what animals shall be classed as game and/or fur-bearing animals, and the time, manner, means and devices for taking same, to introduce desirable species of game, fish and birds. The members of the Board shall not be paid any salary as members of such Board, but shall be reimbursed for actual expenses of travel, meals and lodging while in the performance of their duties as members of such Board.

Section 12. The Commissioner shall have power to appoint one Field Assistant trained in the science of bird, animal and fish life, a Chief Game Warden, and as many game and fish wardens as he shall deem necessary for the proper enforcement of the game and fish laws of the State. Provided that, such Field Assistant, Chief

Game Warden and all other game and fish wardens shall, before entering upon their duties as such Field Assistant and game and fish wardens take the oath of office as required by law for Sheriffs in this State and shall give bond in the sum of One Thousand (\$1,000.00) Dollars with a surety company authorized to do business in this State as surety on said bond which said bonds shall be approved by the Governor and filed as the bonds of State and County officers are filed, and conditioned as bonds of deputy Sheriff of this State. Premiums on said bonds shall be paid out of the Game and Fish Fund. The employees provided for herein shall be reimbursed for their meals, lodging and transportation when absent from their headquarters in the performance of their duties. The expenses herein set forth shall be paid monthly out of the Game and Fish Fund.

Section 13. The Commissioner shall have the authority, with the approval of the Governor, when in his opinion the condition of the revenues in the Game and Fish Fund require it, to reduce any or all salaries and expenses of the employees of the Department from time to time so as to remain within the income of said Department.

Section 14. The Commissioner shall enforce all laws now existing or that may be hereafter enacted for the protection, propagation and preservation of game animals, birds, fresh and salt-water fish, shrimp, oysters and other shell-fish, crustaceans, and all other species of wildlife in this State, and shall in person or through his wardens or agents prosecute all persons who violate such laws, and at any and all times seize any and all birds, animals or fish that have been caught, killed or taken at a time, in a manner, or for any purpose, or in possession, or which have been carried, transported or shipped, contrary to the game and fish laws of this State.

Section 15. Game and fish wardens shall have power to enforce all laws of this State relating to birds, animals and fish; to execute all warrants and search warrants for the violation of the game, fish and fur laws of the State; to serve subpoenas issued for examination, investigation and trial of all offenses against the law relating to game, fur-bearers, birds, and fish; to carry fire arms as provided by law for enforcement officers when in the discharge of their official duties; to confiscate all game, birds, animals or fish or parts thereof which have been caught, taken, killed or held at a time, in any manner, or for any purpose, or had in possession or under control, or have been shipped, carried or transported contrary to the laws of this State, and game, fur-bearers, birds, fish or parts thereof so confiscated shall be held as evidence in the court in which the defendant is held for trial, and upon conviction of the defendant said game, fur-bearers, birds, fish or parts thereof, shall be disposed of by written order of the court; to enter upon any



land or water in the performance of their duty; to assist individual citizens, clubs, groups, and organizations of sportsmen and conservation clubs by furnishing information and such other assistance as may be found necessary in the construction of fish ponds, the establishing of feeding grounds for migratory wild fowl, the planting of fish from the State and Federal fish hatcheries, the reclaiming of stranded fish, the control of predators on useful forms of wildlife; and such other additional duties as the Commissioner may direct. The Chief Game Warden shall constantly keep in touch with the game and fish wardens; assist and advise them in their work; see that all wardens are continuous in the performance of their duties; make reports to the Commissioner of any dereliction of duty; investigate all charges of alleged misconduct or other alleged wrongful acts on the part of any warden and make special reports thereon to the Commissioner; assist in the prosecution of violations of all laws relating to the Department; and perform such other duties as the Commissioner may direct.

Section 16. The Commission shall make a report to the Governor during the month of October, each year, showing official business transacted by him, and he shall issue and cause to be printed bulletins bearing upon conservation of the wildlife of the State, and he shall gather and compile information for the use of the Governor and the legislature, concerning same, and shall make such recommendations for the passage of such additional laws as he may deem proper or advisable, and to this end he shall provide the legislature with such reports as will acquaint them with the needs of legislation touching his office and matters under the control and supervision of his office.

Section 17. The office and accounts of the Commissioner shall be audited by the direction of the Governor in the same manner as the office and accounts of other State officers are audited.

Section 18. The blanks and other printed matter necessary to carry out the provisions of the game and fish laws shall be printed under the direction of the Commissioner and shall be paid out of the Game and Fish Fund in the same manner and upon the same terms as other public printing.

Section 19. The Commissioner shall publish in pamphlet form for general distribution all laws relating to game, birds, fish and fur-bearers, seafoods, and all other matters over which such Commissioner has authority or supervision.

Section 20. Certificates may be granted by the Commissioner upon the payment of one (\$1.00) dollar to defray the necessary expenses attending the granting of such certificates, to any properly accredited person, permitting the holder thereof to collect protected animals and birds for strictly scientific purposes only. In order to obtain such certificates the applicant for the same must furnish the

Commissioner with written testimonials from two well known mammalogists or ornithologists, one of whom shall be resident of this State, certifying to the good character, qualifications and fitness of said applicant to be entrusted with such privileges. Such certificate shall expire on the 30th day of September of the year in which it is issued.

Section 21. The Commissioner upon the payment of a fee of ten (\$10.00) dollars may issue an annual game breeder's license to any properly accredited person, firm, corporation or association, permitting him, her, or it, to engage in the business of raising game birds and game or fur-bearing animals for propagating purposes in this State. Before such permit is issued the Commissioner shall make or cause to be made a thorough investigation, and therefrom determine the qualifications, responsibility and equipment of applicant for entering upon the business of breeding, raising and handling of such game birds and game or fur-bearing animals. Such game breeders' license shall expire on the 30th day of September of the year in which same is issued.

Section 22. Any, person, firm or corporation holding a game breeders' license as provided herein may sell live protected game, game birds, or eggs, of such birds, for propagating purposes only, to any person within or without this State, provided such game, birds or eggs have been raised or hatched during the legal tenure of said game breeder's license; and provided further that the purchaser or purchasers of said protected game, birds, or eggs of said birds, are made known to the Commissioner before the sale or shipment of same. The serial number of the license of the game breeder making sale or shipment shall appear or be attached in a conspicuous place on the crate or other container in which said animals, birds or eggs of said birds are being shipped. The Commissioner shall have power to cancel or declare void any game breeder's license when in his opinion same is not being used in strict compliance with the provisions of this and preceding sections.

Section 23. The Commissioner, with the approval of the Conservation Board, is hereby authorized to make and promulgate such reasonable rules and regulations, not in conflict with the provisions of the game and fish laws, as he may deem for the best interest of the conservation, protection and propagation of wild game, birds, animals, fish and seafoods, which rules and regulations shall have the force and effect of law; provided, however, that the Commissioner shall not have the right to make or promulgate any rule or regulation which will hamper industry, or which will interfere with the operation of any industrial plant or plants, or industrial operation, or operations.

Section 24. The Commissioner may with the consent and approval of the Governor, by lease, gift or otherwise, acquire title to

or control over lands within the State, suitable for protection and propagation of game and fish, or for public hunting and fishing purposes, or to be used otherwise as hereinafter provided, to be known as State Game Lands. The Commissioner may purchase, erect, and equip such buildings as may be deemed necessary for propagating game, birds, or fish, the expenses for which shall be paid out of the Game and Fish Fund.

Section 25. The title to any land acquired by gift or otherwise shall first be approved by the Attorney General, and such title shall vest in the State. The deed to any such lands shall be recorded in the county where such land lies and shall be deposited with the Commissioner. The supervision of and over such lands shall be under the control of the Commissioner.

Section 26. The Commissioner may on approval of the Governor establish and maintain State game refuges or sanctuaries for the protection, preservation, or propagation of game birds, animals or fish on all or any portion of lands or waters held in fee or trust under lease by the State, and game birds, animals or fish shall not be hunted, pursued, disturbed or molested thereon at any time. The Commissioner may also, by and with the consent of the Federal authorities, maintain, develop and cause to be utilized for hunting State shooting preserves, game refuges and sanctuaries in National Forests or other Federal owned lands.

Section 27. All licenses shall be dated when issued and shall authorize the person named therein to hunt or fish from October 1st to September 30th, following, and then only within the regulations and restrictions provided by law.

Section 28. All hunting and fishing licenses, both resident and non-resident, shall be numbered consecutively at the time they are printed. Blank licenses shall be furnished by the Commissioner to the Judges of Probate of the several counties of the State, or the License Commissioner, and to such other person or persons not residing at the county seat as may be designated by the Commissioner, to issue hunting and fishing licenses, and the Commissioner shall deliver, not less than fifteen days before the first day of October of each year, to the Judges of Probate of this State and to such other person or persons so designated, as many such licenses as may be required, and shall charge with same all those to whom licenses have been so issued. On the first day of October in each year, or within ten days therefrom, each officer or person to whom licenses have been so issued shall return to the Commissioner all unused licenses and all stubs of licenses issued during the preceding fiscal year.

Section 29. Any person who has been a bona fide resident of this State for six months next preceding may procure a county hunting license for himself or herself by filing his or her applica-

tion with the person in the county in which he or she permanently resides, duly authorized to issue said license, stating his or her age, color, place of residence, post office address, and after paying to the person issuing same a license fee of one (\$1.00) dollar.

Section 30. Any person who has been a bona fide resident of the State for six months next preceding may procure a State hunting license for himself or herself, by filing with any duly authorized person in any county of the State to whom he or she applies for license, the application provided in the preceding section, and after paying to the person issuing said license a fee of three (\$3.00) dollars.

Section 31. Any non-resident of this State may procure an annual license to hunt in this State by filing his or her application with the Commissioner or any Judge of Probate, or other person authorized to issue same, stating his or her age, color, place of residence, and post office address, and after paying to the person issuing said license a fee of twenty-five (\$25.00) dollars.

Section 32. Any non-resident of this State may procure a trip hunting license in the same manner as provided for non-resident annual hunting license provided for in the preceding section, by paying therefor the sum of five (\$5.00) dollars, which license will authorize the holder thereof to hunt in this State for a period of seven days from the day said license was issued.

Section 33. No person under the age of fourteen years will be required to procure a hunting license to hunt within the State of Alabama; provided further that such person or persons shall be required when hunting upon lands other than their own, or which they rent, or upon which they reside, to have a permit to hunt on such lands or to be accompanied by some person of adult age who is authorized to hunt upon said lands.

Section 34. Any person who hunts on lands other than he owns and permanently resides thereon, or rents or leases strictly for growing agricultural crops as a means of a livelihood and resides on such lands, without first obtaining a county hunting license, permitting him or her to do so, or who hunts outside of the county in which he actually resides without first obtaining a State hunting license, permitting him or her to do so; or any non-resident of the State who hunts in this State, without first obtaining a non-resident hunting license, permitting him or her to do so; or who lends or transfers his or her hunting license to another, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than ten (\$10.00) dollars nor more than twenty-five (\$25.00) dollars for each offense; provided that all land owners and landlords and members of their immediate families residing and having their permanent residence with them may hunt upon their own land on which they reside and have their permanent residence

without a license; and tenants and members of their immediate families living and having their permanent residence with them may hunt upon the lands which they rent strictly for agricultural purposes as a means of livelihood and on which they permanently reside without a license.

Section 35. All persons engaging in the business of training dogs for hunting or field trial purposes for remuneration or profit, shall first procure a dog trainer's license from the Commissioner, and pay for same the sum of five (\$5.00) dollars, such license to be procured and such fees to be deposited in like manner as provided for other licenses set forth in this Act.

Section 36. Any person in this State who trains dogs for hunting or field trial purposes for remuneration or profit without first procuring from the Commissioner a dog trainer's license shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not less than fifteen (\$15.00) dollars nor more than twenty-five (\$25.00) dollars for each offense.

Section 38. Non-residents of this State may procure an annual fishing license, by filing with any person authorized to issue same, an affidavit stating applicant's age, place of residence, color, and post office address, and after paying to the person issuing said license a fee of five (\$5.00) dollars.

Section 39. Any non-resident of this State may procure a trip fishing license in the same manner provided for other licenses provided in this Act, by paying therefor the sum of two (\$2.00) dollars, which license will authorize the holder thereof to fish in any of the public waters of this State, in which fresh water fish appear, for a period of seven days from the day said license was issued.

Section 40. Any person for whom a fishing license is required who fishes in the public waters of this State in which fresh water fish appear, without first procuring a license as provided by law, shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not less than ten (\$10.00) dollars nor more than twenty-five (\$25.00) dollars for each offense.

Section 41. The Judge of Probate, the Commissioner, or such person or persons not residing at the county seat in which the county court house is located, and duly appointed by the Commissioner, and so authorized by him, shall have authority to issue all licenses, resident or non-resident, to all persons complying with the provisions of this Act, and shall sign his name, and shall require the person to whom the license is issued to sign his or her name on the margin thereof. The person or persons issuing said license shall keep in a book or on specially prepared sheets to be furnished by the Commissioner, a correct and complete record of all licenses issued, which record shall remain in his or her office and be open to inspection by the public at all reasonable times.

Section 42. Judges of Probate and other persons authorizing and designated to issue licenses shall retain out of the money received for each license issued, the following amounts; viz, county hunting and state hunting licenses, non-resident hunting and non-resident fishing licenses, fifteen cents each, which fees shall cover services required by the provisions of this Act, and shall remit the balance to the Commissioner on the first of each month, which balance shall be covered into the State Treasury to the credit of the Game and Fish Fund, and said Judges of Probate and all other duly authorized and designated persons shall report to the Commissioner on the first day of each month the number and kind of licenses issued and the name and post office address of the person or persons to whom issued, giving opposite each name the serial number of the license so issued, and the amount of money remitted. Provided, however, that if any such license is issued by the Commissioner or by any Probate Judge who is paid a salary for the performance of his duties as such Probate Judge, or by any License Commissioner authorized by statute to issue hunting, fishing and commercial fur licenses and who is paid a salary as such License Commissioner, he shall be required to remit the entire amount collected to the Commissioner to be covered by the Commissioner into the Game and Fish Fund.

Section 43. All hunting and fishing licenses, state and county, for residents and non-residents, shall be printed on cards of distinctive and different colors.

Section 44. All money arising from the sale of hunting and fishing licenses, penalties, forfeitures, etc., and from permits or other sources, relating to or growing out of the administration and enforcement of the game and fish laws of this State, shall be forwarded on the first day of each month to the Commissioner, by the officer, court or other person authorized to collect same and shall by the Commissioner be remitted to the State Treasurer who shall deposit same in a separate fund to be known as the "Game and Fish Fund." Said Game and Fish Fund shall be used for the payment of the salary of the Commissioner, and for all necessary incidental expenses, and further for the payment of the salaries and expenses of the game and fish wardens and agents, and the salaries of all employees of the Department, and further for the purchase, transportation, propagation and planting of brood stock of game birds and animals, and further for the acquisition of lands as provided in this Act, and the purchase, propagation and distribution of fresh water fish. The expenses incurred for any purpose under the provisions of this Act shall be limited to the amount of money in the Game and Fish Fund, and in no event shall said fund, or any part thereof, be spent for any purpose other than as provided in this Act, and at no time shall said revenues or

any part thereof be spent for any purpose by any official, employee, agent or institution of the State of Alabama, but shall remain in the Game and Fish Fund to be spent for the purposes for which same were collected.

Section 45. The Commissioner on approval of the Board shall have power, when in his opinion it is deemed necessary for the conservation, protection or propagation of game birds and animals on lands held in fee, or trust, or under lease by the State, or under the control and supervision of the State, to close the season on any or all species of game birds or animals on such lands, said closed season to continue so long as the Commissioner may deem it necessary or advisable.

Section 46. As used in this Act, unless otherwise especially restricted or enlarged, the "herein," "hereafter" and "hereof" refer to the whole of the conservation laws of this State, and the word "warden" means game and fish warden, deputy game warden or agent provided for in the game and fish laws. The word "officer" includes every person authorized to enforce the provisions of the game and fish laws, and whenever the possession, use, importation, transportation, storage, sale, offering or exposing for sale of game birds, animals, or fish is prohibited or restricted, the prohibition or restriction shall extend to and include every part of such game, bird, animal or fish, and a violation as to each animal, bird or fish, or part thereof, shall be a separate offense. Where the words "this Act or provisions of this Act" are used herein, they shall be taken and construed to include all rules and regulations of the Commissioner passed under and by the authority provided in the game and fish laws of this State.

Section 47. The Commissioner, his wardens, agents and employees shall be and are hereby constituted peace officers of the State of Alabama, with full and unlimited police power and jurisdiction to enforce the provisions of the game and fish laws and the rules and regulations promulgated thereunder; and they may exercise such power in any county of the State of Alabama or in or on any waters of the State of Alabama or within the territorial jurisdiction of the State.

Section 48. Justices of the Peace or the inferior criminal courts of the counties of the State of Alabama shall be and are hereby given final jurisdiction to try and convict persons, firms or corporations violating any of the provisions of the game and fish laws, or the rules and regulations promulgated thereunder; and they shall remit to the Commissioner on or before the first day of each month all fines and forfeitures collected by them for the violation of such laws, rules and regulations, as prescribed in the game and fish laws, together with a statement of the name of the person, firm or corporation convicted of such violation, the time of such conviction,

the amount of the fine or penalty, the date of the remittance, and the specific charge for which the defendant was tried.

Section 49. The proceedings before the justice or other inferior court must be prosecuted in the name of the State of Alabama, and any person, firm or corporation convicted in such inferior court may at any time within ten days from the date of the conviction appeal to the Circuit Court of the county in which the offense was committed, where the cause shall without investigation or intervention of a grand jury, be docketed and tried de novo, and prosecuted by the solicitor, or his assistant.

Section 50. On appeal of pending trial from any justice or other inferior court the appellant may enter into bond with sufficient surety, payable to the State of Alabama, with condition to prosecute the appeal to effect. The bond must be returned on appeal with the other papers in the cause, to the Circuit Court or other court of concurrent jurisdiction; and, if the judgment is affirmed, judgment shall render against the defendant for the total amount of the fine, together with all the accrued costs in the case.

Section 51. The solicitor of any county, or deputy solicitor of any county, in which any violation of the provisions of the game and fish laws or the rules and regulations provided thereunder, shall have occurred, shall appear on behalf of the State and prosecute the offender. When a conviction has been obtained and a fine or penalty imposed in the court of a justice of the peace or a court of similar jurisdiction, there shall be attached, in addition to other costs, a fee of five (\$5.00) dollars as solicitor's fee.

Section 52. All enforcement officers and inspectors employed by the Commissioner are clothed with the power and authority of deputy sheriffs, and shall arrest without warrant and carry before the Justice of the Peace or the Inferior Criminal Court of the county in which an offense is committed, any person violating any of the provisions of the game and fish laws or the rules and regulations made and promulgated thereunder.

Section 53. In cases of violation of any of the provisions of the game and fish laws or the rules and regulations based thereunder by any person, firm or corporation, the warrant of arrest may be read to the President, Secretary or Manager of such firm or corporation in this State, or to any general or local agent thereof, in any county where the action or indictment is pending, and upon the return of such warrant so served, the corporation shall be deemed in court and subject to jurisdiction thereof, and any fine imposed may be collected by execution against the property of said corporation, provided, however, that this section shall not be so construed as to except or exempt from prosecution any agent or employee of such corporation.



Section 54. Every court, or clerk of any court, before whom any prosecution under the provisions of the game and fish laws is had, shall, on or before the first of the month following after trial or dismissal thereof, report in writing to the Commissioner the result thereof, and the amount of the fine collected, if any, and the disposition of same.

Section 55. Two or more offenses may be charged in the same affidavit, complaint or indictment and proof as to a part of a game bird, animal or fish shall be sufficient to sustain a charge as to the whole of it; and the violation as to any number of animals, birds or fish of the same kind may be charged in the same count and punished as separate offenses as to each game bird, animal or fish.

Section 56. When an arrest for a violation of the provisions of the game and fish laws is made by a salaried officer and the defendant is convicted, there shall be taxed, as costs in favor of such officer making the arrest, the same fee as a sheriff in this State is entitled to for similar service and if collected from the defendant, shall be paid over to such officer and shall be his personal perquisite. If the officer be a non-salaried warden or officer, he shall receive in addition thereto an informer's fee of one-half of the fine in each case where the information furnished by him results in a conviction and the fine is collected and paid into court. No fee shall be allowed in cases of acquittal.

Section 57. All fines imposed under the provisions of the game and fish laws shall be paid in lawful money, that is to say in the currency of the United States of America.

Section 58. The Circuit Judges and Judges of Concurrent Jurisdiction shall charge the grand juries, when organized, as to the provisions of the game and fish laws, and shall urge strict inquiry into infractions thereof.

Section 59. All lands belonging to the State of Alabama, whether held in fee or in trust by the State, are hereby declared game and bird preserves and refuges.

Section 60. In any prosecution for misdemeanor before a Justice of the Peace or other inferior court, under and by virtue of the provisions of the game and fish laws, the defendant shall not have the right of a jury trial, except on appeal to the Circuit Court or court of like jurisdiction, but the said justice of the peace or other inferior court having jurisdiction shall proceed with the trial, and if the defendant is convicted he may appeal to the Circuit Court or other Court of Record of like jurisdiction in the county having jurisdiction in cases of appeals from such justice of peace, or other such inferior courts, and cases so appealed shall, without the intervention of or investigation by a grand jury, be docketed in such circuit court or other court of like jurisdiction, and stand for trial de novo, on the original affidavit and warrant on the trial of such

appealed cases the defendant shall be entitled to and may demand a jury.

Section 61. The Commissioner shall have power to appoint deputy game and fish wardens whose duties shall be to enforce all laws relative to wild game birds, animals and fish upon privately owned game preserves and refuges, provided, however, that such deputy game and fish wardens shall not receive from the State any compensation or reimbursement for expenses incurred in the performance of their duties as such.

Section 62. Game and fish wardens may be furnished with necessary skiffs, outboard motors, and other equipment necessary in the performance of their duties as such game and fish wardens, said equipment to be furnished by the Commissioner and paid out of the Game and Fish Fund, provided further that no equipment shall be furnished by the Commissioner to wardens appointed for privately owned preserves and refuges.

Section 63. Any person, firm or corporation who or that violates any provision of the laws of the State of Alabama relating to game, birds, animals, fish or seafoods, including oysters and shrimp, unless a penalty has otherwise been provided shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not less than twenty (\$20.00) dollars for each offense.

Section 64. All laws and parts of laws in conflict with the provisions of this Act are hereby expressly repealed.

Section 65. If any provision of this Act, or the application thereof to any person or circumstances, shall be held by the Supreme Court of this State to be unconstitutional, such holding shall not affect any other provision or the application of same to any other persons or circumstances, it being the intent and purpose hereof that each provision and section of this Act shall stand or fall on its own merits and that the judicial annulment of any such provision or section shall not in any wise affect any other provision or section not so annulled.

Section 66. This Act shall become effective upon the approval of the Governor.

Approved August 12, 1935.

No. 246

(S. 36—Kelley)

## AN ACT

To fix the minimum age at which children may enter public schools in Alabama and to repeal all laws or parts of laws in conflict herewith.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That a child who is six years of age on or before October first shall be entitled to admission to the public elementary schools at the opening of such schools for that school year or as soon as practicable thereafter; that a child who is under six years of age on October first shall not be entitled to admission to such schools during that school year, except that a child who becomes six years of age on or before February first may, on approval of the board of education in authority, be admitted at the beginning of the second semester of that school year to schools in school systems having semi-annual promotions of pupils.

Section 2. That all laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

Approved August 13, 1935.

No. 247)

(S. 244—Kelly)

## AN ACT

To provide for the filing of delayed certificates of birth and death.

*Be it Enacted by the Legislature of Alabama:*

Section 1. THE FILING OF DELAYED CERTIFICATES OF BIRTH OR DEATH PROVIDED FOR. Birth certificates shall be accepted for filing at any time after birth, provided they be authenticated by the signature of the attending physician. If birth was attended by a midwife, or any other person, and the certificate is tendered one year or more after birth, it must be accompanied by such sworn statements or affidavits as the State Board of Health shall prescribe. Death certificates shall be accepted for filing up to one year from the date of death, provided, that if tendered sixty days or more after death, they must be authenticated by such sworn statements or affidavits as the State Board of Health shall prescribe. Certificates of death occurring more than one year prior to tender shall not be accepted for filing. Nothing in this section shall exempt physicians, midwives, or other attendants at births, or undertakers, or persons acting as undertakers at burials, from filing birth, stillbirth, and death certificates, as prescribed elsewhere in this Article.

Section 2. That this act shall take effect upon passage and signature by the Governor.

Approved August 19, 1935.

No. 248)

(S. 245—Kelly.)

## AN ACT

To repeal Sections 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, and 1932 of the Code of Alabama of 1923, all of which sections are parts of the Municipal Corporations Code, pertaining to the public health of Alabama.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That Sections 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, and 1932 of the Code of Alabama of 1923, all of which sections constitute Article 17, on Municipal Corporations, and pertain solely to the public health of Alabama are hereby repealed.

Section 2. That this Act shall take effect upon its passage, and signature by the Governor.

Approved August 20, 1935.

No. 249)

(S. 246—Kelly.)

## AN ACT

To repeal Sections 1057, 1062, 1083, 1084, 1099, 1117, 1121, 1122, 1123, 1126, 4357, 4358, 4368, 4467, 4471, and 4474, of the Code of Alabama of 1923, all of which are parts of the Public Health Law.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That Sections 1057, 1062, 1083, 1084, 1099, 1117, 1121, 1122, 1123, 1126, 4357, 4358, 4368, 4467, 4471, and 4474, of the Code of Alabama of 1923, all of which are parts of or pertain to the Public Health Law, are hereby repealed.

Section 2. That this act shall take effect upon passage and signature by the Governor.

Approved August 20, 1935.

No. 252)

(H. 197—Sparks (Barbour))

## AN ACT

To amend Section 3 of an Act entitled An Act allowing boxing, sparring and wrestling matches and exhibitions under the regulation and supervision of the Alabama Athletic Commission herein established, and relating to the powers, duties, compensation and authority of said commission, and prescribing penalties for the violation of the provisions of this Act, or rules of said commission," approved July 1, 1927, as amended by an Act entitled An Act to amend Section 3 of an Act entitled An Act "Allowing boxing, sparring and wrestling matches and exhibitions under the regulation and supervision of the Alabama Athletic Commission herein established, and relating to the powers, duties, compensation and authority of said commission, and prescribing penalties for the violation of the provisions of this Act, or rules of said commission," approved April 16, 1931.

*Be it Enacted by the Legislature of Alabama:*

That Section 3 of An Act entitled An Act "Allowing boxing, sparring and wrestling matches and exhibitions under the regula-

tion and supervision of the Alabama Athletic Commission herein established, and relating to the powers, duties, compensation and authority of said commission, and prescribing penalties for the violation of the provisions of this Act, or rules of said commission," be amended so as to read as follows: Section 3. The Commission shall adopt a seal and shall have and hereby is vested with the sole direction, management, control and jurisdiction over all boxing, sparring and wrestling matches or exhibitions to be conducted, held or given within the State of Alabama, and no such boxing sparring or wrestling match or exhibition shall be conducted, held or given within the State except in accordance with the provisions of this Act. The Commission shall have full power and authority and it shall be its duty: (a) to make and publish boxing rules and regulations governing the conduct of boxing, sparring and wrestling matches and exhibitions, the time and place thereof, and the prices charged for admission thereto: (b) to accept application for and in its discretion order a license or permit issued to any patriotic organization chartered by authority of a special Act of the Congress of the United States, or local unit thereof, desiring to promote or conduct a boxing, sparring or wrestling match or exhibition, and to revoke such license or permit when in their discretion they deem it just and proper, provided, however, that no license or permit shall be issued to any organization, or local unit thereof, which has not been in existence and held meetings at regular intervals for one year immediately preceding the granting of the permit; provided, further, that no local unit of a patriotic organization entitled to apply for a license or permit under the provisions of this Act shall be denied the right to promote or conduct a boxing, sparring or wrestling match or exhibition except for cause specified in writing; (c) to collect through the Recorder of Permits and Licenses a fee of one dollar for every permit or license to hold a boxing, sparring or wrestling match or exhibition, and ten per centum of the gross receipts of every boxing sparring or wrestling match or exhibition, and a reasonable fee, to be fixed by the Commission, not to exceed \$10.00 for each annual license or permit issued to a boxer, wrestler, matchmaker, promoter, or manager, and \$1.00 for each annual license or permit issued to referee, judge, ticket seller, announcer, trainer, second, medical examiner, ticket taker, director or timekeeper; (d) to revoke any license or permit when, in its sound discretion, the public welfare requires it; provided, however, that nothing in this Act shall be construed as permitting, authorizing, or enjoining the Commission to collect any license, permit, fee, or, tax for any amateur boxing, sparring, or wrestling matches or exhibitions held under the auspices of educational institutions when the proceeds of affairs of this nature are to be used to foster, aid, or abet programs of edu-

cation in the State of Alabama. But no exemptions from license, permit, fee, tax, or charges will be granted to any person, group of persons, or organization when the proceeds or any part thereof of such amateur boxing, sparring, or wrestling matches or exhibitions are for personal or private gain. Reports of all such matches shall be made to the Boxing Commission within ten days thereafter, and upon such form and with such information as may be required by the Commission.

Approved August 21, 1935.

No. 253)

(H. 210—Calhoun

### AN ACT

To define the obligation of newspaper employees when called upon to testify before any court, tribunal, commission or inquest.

*Be it Enacted by the Legislature of Alabama:*

Section 1. DEFINITION—By the word “court” shall be designated the following: Court of errors and appeals, courts of chancery, supreme court, circuit court, prerogative court, orphans’ court, surrogate court, court of common pleas, court of oyer, and terminer, court of quarter sessions, court of special sessions, magistrate’s court, recorder’s court, or any tribunal, commission or inquest operating under any order of the above mentioned courts.

Section Two.—No person engaged in, connected with or employed on any newspaper while engaged in the news gathering capacity shall be compelled to disclose, in any legal proceeding or trial, before any court or before a grand jury of any court, or before the presiding officer of any tribunal or his agent or agents, or before any committee of the Legislature, or elsewhere, the source of any information procured or obtained by him and published in the newspaper on which he is engaged, connected with or employed.

Section Three. The purpose of this act, is to safeguard and protect the professional confidence of newspaper and newspapermen.

Section Four. This act shall take effect upon its passage and approval.

Section Five. All laws or parts of laws in conflict herewith are hereby repealed by this act.

Approved August 21, 1935.

No. 258)

(HJR. 250—Walker

## HOUSE JOINT RESOLUTION

WHEREAS, There exists a vacancy of the United States Circuit Court of Appeals for the Fifth Judicial District by reason of the lamented death of the Honorable Judge Nathan P. Bryan, of Florida, and the Honorable Leon McCord of Montgomery, Alabama, has the endorsement of His Excellency, Bibb Graves, Governor of Alabama, United States Senators Hugo L. Black and John H. Bankhead, of Alabama and all the members of Congress from Alabama; and,

WHEREAS, Judge Leon McCord is a veteran jurist of Alabama and is, by experience, broadness of intellect and natural endowment, peculiarly and exceptionally qualified for the position to be filled and will fulfill the duties thereof with distinction to himself, and the Court, creditable service to the people, and with honor to this State and the Nation;

NOW THEREFORE, BE IT RESOLVED by the Legislature of Alabama that we heartily endorse the Honorable Judge Leon McCord for this high judicial position and urge his appointment by His Excellency, Franklin D. Roosevelt, President of the United States; and,

BE IT FURTHER RESOLVED by the Legislature of Alabama that copies of this resolution be sent to the President of the United States, to the Attorney General of the United States, to United States Senators and Members of the House from Alabama.

Approved August 15, 1935.

No. 259)

(S. 170—St. John.

## AN ACT

To define, incorporate, govern and regulate the business of county mutual fire, lightning and windstorm insurance companies.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That twenty or more persons, a majority of whom are citizens of this State, may become a body corporate for the purpose of doing a county mutual fire insurance business on the assessment plan, as defined and provided in this Act, if they make, subscribe and acknowledge, and file in the office of the Probate Judge of the County in this State in which they propose to operate and maintain their principal office, a certificate specifying: 1. The name, which shall contain the word "Mutual", and shall not be so similar to any name already in use by a similar corporation existing in this State, as to be confusing or misleading. 2. The purpose for which said corporation is formed. 3. The name of the County

in this State in which the corporation will operate and the location therein of its principal office. 4. The name and address of the incorporators, and the number and names and addresses of those composing the Board of Directors in which the management shall be vested until the first meeting of the members.

Section 2. A county mutual fire insurance company is hereby defined to mean a company incorporated under the laws of Alabama for the purpose of insuring farm property, including live stock, against damage by fire, lightning and windstorms, without capital stock or guaranteed capital, and which operates on the assessment plan, and is limited to one county, as hereinafter provided, in the transaction of its business.

Section 3. No county mutual fire insurance company shall commence the transaction of business until it receives from the Superintendent of Insurance a certificate of authority, and pays therefore a fee of ten dollars, which certificate shall state that such company has complied with the provisions of this Act.

Section 4. Every such insurance company shall file with the Superintendent of Insurance a certified copy of its charter or articles of incorporation, together with a sworn statement of two of the incorporators, that bona fide applications have been made by not less than twenty-five citizens, for not less than fifty thousand dollars of insurance, of which amount no one or more risks subject to one fire shall exceed one thousand dollars, said risks to be located in the county in which such company has its domicile.

Section 5. Every such corporation may then be authorized to issue policies of insurance, signed by its president and secretary, agreeing, in the name of the corporation, to pay all damages caused by fire, lightning or windstorm, done to the property insured during the life of the policy. There shall be a clause plainly printed in each policy that the holder thereof, or the insured, is liable for such assessments as may be necessary to pay in full all losses and expenses incurred by the corporation.

Section 6. Every person insured by or in any such corporation shall first give his undertaking, in such form as the corporation may prescribe, which form shall be uniform by and between all the insured, to pay their pro rata share of all losses or damages sustained by any member thereof from any cause specified in the policy, and any expenses incurred by the company, and for the creation of a surplus fund. All dues, premiums or assessments shall be made pro rata upon all property insured according to its classifications and according to the amount insured. The corporation is authorized to borrow money for the purpose of paying losses, and no assessment shall be invalid because made in whole or in part for the purpose of paying any money borrowed by the corporation



which has been used in the payment of any claim for loss, damage or expenses against the corporation.

Section 7. The officers of the corporation shall not enter into any contract or agreement or make any debt of any kind, except for the payment of losses.

Section 8. The Secretary of any such corporation shall notify every member of the corporation, by written or printed notice signed by him, stating the amount due the corporation from the members, and the time when, place where and to whom it shall be paid. Such payment shall be made by the member within such time from the delivery of the notice as may be fixed in the by-laws of the company, which notice may be delivered personally or by mail; and if by mail, delivery shall be deemed complete on each member when deposited in the postoffice at the place where the office of the Secretary of the corporation is located, directed to each member at the last postoffice address given on the company's books of record, postage prepaid.

Section 9. Any member who refuses or neglects to pay his assessment may, for such reason, or for any other reason satisfactory to the directors or executive committee, be excluded by a majority of the directors or executive committee, or as the by-laws may prescribe, from the corporation; and when thus excluded, the Secretary shall cancel or withdraw his policy or policies, which shall prevent his recovering from any loss or damage sustained after such exclusion. If any member of the corporation shall be excluded therefrom as herein provided, and his insurance cancelled, the Secretary shall at once enter the same, with the date thereof, upon the records of the corporation, and, either in person or by mail, notify the member of such exclusion and cancellation of his insurance; and if by mail the postage shall be prepaid and the notice addressed to him at his last postoffice address given on the company's books of record.

Section 10. No such company shall issue policies of insurance on property located in any County in this State other than the County in which it has its home office.

Section 11. Such companies are authorized to accumulate a surplus or emergency fund in such amount as may be deemed advisable by its board of directors, and to reduce the amount of said fund, when and in such manner as may be deemed advisable by its Board of Directors.

Section 12. It shall be the duty of the Board of Directors to notify all policyholders of the time and place of the annual meeting of said policyholders, either by printing same on their policies or by special notice, and to report to such annual meeting all matters pertaining to the operation of the company, and at said annual meeting the Board of Directors shall be elected, and such other business may be transacted by the policyholders as may legally

come before them. Every policyholder in good standing shall be entitled to one vote, in person or by ballot transmitted by mail, as may be provided by by-laws, in any election for directors or upon any other question. No member shall be allowed to vote by proxy.

Section 13. Immediately after the annual meeting of the policyholders the Board of Directors shall meet and transact any business coming before it, and shall elect a president, vice-president, secretary and treasurer, and such other officers and employees as they may deem necessary. Regular meetings of the Board may be held as often as the by-laws may provide, and special meetings may be held at the call of the president, or a majority of the Board of Directors. The Board of Directors shall consist of not less than six nor more than fifteen policyholders, the first Board to be elected one-third for one year; one-third for two years and one-third for three years; thereafter one-third to be elected each year for a period of three years. The president, vice-president and secretary shall be members of the Board of Directors, and also members of the executive committee, which Committee is authorized to conduct the business of the company under the authority of the Board of Directors.

Section 14. No officer or other person whose duty it is to determine the character of risk and upon whose decision the application shall finally be accepted or rejected, shall receive as any part of his compensation a commission upon the premium, but his compensation shall be a fixed salary, as the Directors may determine.

Section 15. The maximum amount carried on any one risk or hazard subject to one fire by any company shall not exceed the amount prescribed in the following schedule.

Amount of Insurance in Force		Maximum Risk
When under \$100,000.00		\$ 1,000.00
When \$ 100,000.00 and under \$ 250,000.00		1,500.00
When 250,000.00 and under 400,000.00		2,000.00
When 400,000.00 and under 600,000.00		3,000.00
When 600,000.00 and under 900,000.00		4,000.00
When 900,000.00 and under 1,200,000.00		5,000.00
When 1,200,000.00 and under 1,500,000.00		5,500.00
When 1,500,000.00 and under 2,000,000.00		6,000.00
When 2,000,000.00 and under 2,500,000.00		7,000.00
When 2,500,000.00 and under 3,000,000.00		8,000.00
When 3,000,000.00 and under 3,500,000.00		9,000.00
When 3,500,000.00 and over		10,000.00

The classification of all risks in the above schedule, and the percentage of protection given in each shall be uniformly fixed, and

governed by the by-laws of the company. The Insurance contracts of all such companies shall be made to conform to the provisions of this Act, and shall consist of the policy proper, constitution and by-laws of the company (which must be attached to or incorporated in the policy), all endorsements made on or attached to the policy, and such parts of the application as are attached to or incorporated in the insurance contract,—all of which shall be binding on the assured as long as he remains a member or policyholder in the company.

Section 16. No policyholder shall be liable to assessments to pay losses and expenses accruing previous to the time his policy takes effect, nor for losses and expenses accruing after his policy terminates.

Section 17. Every such company shall make provisions, in its by-laws, for such annual auditing of its books and accounts as the Board of Directors deem necessary, and in addition thereto shall be examined by the Superintendent of Insurance or some other person appointed by him, at least once in three years. The costs of said examinations by the Superintendent of Insurance, or other person appointed by him, shall be borne by the company examined.

Section 18. Every company operating under this Act shall, on or before the first day of March of each year, make an annual report of its business to the Superintendent of Insurance as of the 31st day of December preceding, on such forms as he shall prescribe. At the time of filing its annual statement, each company shall pay to the Superintendent of Insurance a company license fee of ten dollars for the current year. A duly certified list of all agents or other representatives with authority to receive or solicit applications for membership shall also be filed with the Superintendent of Insurance, and a fee of one dollar each shall be paid to said Superintendent of Insurance for an agent's license to be issued to each such agent or representative for the current year. Applications shall be approved and certificate of membership issued only through such duly authorized agents of the company, and under such rules and regulations of the Company, as to compensation of agents and otherwise, as its by-laws may prescribe. The costs, fees and taxes named herein shall be in lieu of all other costs, fees and taxes now required, or which may hereafter be required by the laws of this State.

Section 19. Except as herein provided, County Mutual Fire Insurance Companies shall be governed by the provisions of this Act, and shall be exempt from all provisions of the general Insurance laws of this State, not only in governmental relations with the State, but for every other purpose, and no law hereafter enacted shall apply to them unless they be expressly designated therein.

Section 20. Any company which is organized, incorporated and licensed under the provisions of this Act, and fails to comply with said provisions shall, after due notice and hearing, if the best interests will be served thereby, have its license cancelled by the Superintendent of Insurance, who may take such further action for the protection of the public interest as the facts in the case may warrant.

Section 21. This Act shall take effect immediately upon its passage, and its duration shall be indefinite.

Approved August 26, 1935.

No. 261)

(H. 743—Miller

### AN ACT

To amend Section 7 of an Act to provide for the subordinate officers and employees of the Legislature, including the Senate and the House of Representatives; to fix the number, their positions, terms of office and employment, and the mode of their selection or election; to fix the compensation of such subordinate officers and employees, and to provide how and when such compensation shall be paid; providing clerical assistants to the Secretary of the Senate and the Clerk of the House after adjournment for the completion of the journals, and fixing the time for the filing of same in the office of the Secretary of State and delivery of copy thereof to the State Printer; providing for an information bureau for the members of the Legislature and the public, and providing duties for the Secretary of the Senate and the Clerk of the House of Representatives after adjournment, and to repeal an Act to amend Sections 1530 of the Code of Alabama of 1923, approved January 27, 1927, also the Act to authorize the Senate and the House of Representatives of the Legislature of Alabama; to fix by resolution the per diem of the subordinate officers and employees of the respective Houses, and fix the expense allowances to the President Pro Tem of the Senate, approved February 20, 1931, and to repeal all laws and parts of laws in conflict herewith, approved March 8, 1933.

#### *Be it Enacted by the Legislature of Alabama:*

Section 1. That Section 7 of an Act entitled an Act to provide for the subordinate officers and employees of the Legislature, including the Senate and the House of Representatives; to fix the number, their positions, terms of office and employment and the mode of their selection or election, to fix the compensation of such subordinate officers and employees, and to provide how and when such compensation shall be paid; providing clerical assistants to the Secretary of the Senate and the Clerk of the House after adjournment for the completion of the journals, and fix the time for the filing of same in the office of the Secretary of State and delivery of copy thereof to the State Printer; providing for an information bureau for the members of the Legislature and the public, and providing duties for the Secretary of the Senate and the Clerk of

the House of Representatives after adjournment; and to repeal an Act to amend Section 1530 of the Code of Alabama of 1923, approved January 27, 1927, also the Act to authorize the Senate and the House of Representatives of the Legislature of Alabama to fix by resolution the per diem of the subordinate officers and employees of the respective Houses, and to fix the expense allowances to the President Pro Tem of the Senate, approved February 20, 1931, and to repeal all laws and parts of laws in conflict herewith, approved March 8, 1933, be amended to read: Section 7. All subordinate officers and employees of the Senate and of the House of Representatives, whether elected or appointed, shall hold office at the pleasure of their respective Houses and may be removed for cause at any time, and their employment and compensation therefor shall not extend beyond the duration of the session at which they were elected or appointed, except the Secretary of the Senate and the Clerk of the House of Representatives, whose terms of office or employment and compensation, as heretofore, herein or hereafter fixed and provided for, shall not be affected by the provisions of this Section. For the purpose of checking, comparing, completing and filing the journals of their respective Houses in the office of the Secretary of State, and copying and delivering the journals to the State Printer, the Secretary of the Senate and the Clerk of the House shall be allowed the following clerical assistants, viz: The Secretary of the Senate is hereby allowed the Assistant Secretary, Second Assistant Secretary, the Chief Clerk and the Reading Clerk of the Senate, together with twelve (12) assistants to be named by the Secretary of the Senate; and the Clerk of the House shall be allowed the Assistant Clerk, Second Assistant Clerk, the Reading Clerk, the Chief Clerk to the Clerk of the House, together with twelve (12) assistants to be named by the Clerk of the House; and the Secretary of the Senate and the Clerk of the House shall be allowed six (6) weeks with said clerical assistants within which to check, compare and deliver the journals of the Senate and the House of Representatives of each session of the Legislature to the Secretary of State and the State Printer. The time allowed after final adjournment of the Legislature for the filing of the journals in the office of the Secretary of State and completing the work above mentioned is hereby fixed at six (6) weeks. In addition to the duties herein or otherwise imposed upon or required of the Secretary of the Senate and the Clerk of the House, they shall constitute an information bureau for the members of the Legislature and the general public insofar as it is possible for them to obtain the information required at the State Capitol, provided, however, that when their work of completing and filing the journals of their respective Houses has been completed after final adjournment,

their compensation shall be fixed as provided by Section 9-A of the Budget Control Act of 1932, provided further, however, that in the event of the repeal or the declaring void or unconstitutional of the Act or provisions above mentioned, the Governor shall assign duties to and fix the compensation of the Secretary of the Senate and the Clerk of the House of Representatives and the respective clerical assistants herein provided for.

Approved August 21, 1935.

No. 262)

(H. J. R. 257—Robinson and Sanderson.

### HOUSE JOINT RESOLUTION

WHEREAS: The cotton producers of the United States by an act of Congress have been required to reduce the acreage in cotton for the year 1935, and

WHEREAS: Said cotton producers are still in bad financial condition and have been led to believe that they would obtain a loan of 12c per pound for their cotton crop for the year 1935, and,

WHEREAS, unless the policy of the 12c loan on cotton is continued it appears that it will result in a dire calamity to the cotton producers, THEREFORE

BE IT RESOLVED, by the House of Representatives the Senate concurring, that the President of the United States is hereby respectfully petitioned to grant a 12c loan on cotton produced in year 1935.

BE IT FURTHER RESOLVED That a Copy Of The Resolution be sent to: President Of The United States: Hon. John H. Bankhead, U. S. Senator; Hon. Hugo L. Black, U. S. Senator: Hon. Frank W. Boykin, U. S. Congressman: Hon. Lister Hill: Hon. George Huddleston. Hon. Henry Stegall, Hon. W. B. Oliver. Hon. Joe Starnes, Hon. Sam Hobbs, Hon. A. H. Carmichael, Hon. W. B. Bankhead.

Approved August 21, 1935.

No. 263)

(H. J. R. 261—Connor.

### HOUSE JOINT RESOLUTION

WHEREAS, One of the most tragic airplane accidents in the history of aviation today claimed the lives of Will Rogers, humorist, actor and friend of aviation, and Wiley Post, one of the most intrepid fliers of the age; and

WHEREAS, Hardly a member of this House and Senate has not chuckled to himself over the bright humor of Rogers, who once addressed this Legislature, and whose position in this world

as a friend of kings, presidents, rich and poor, was one that probably will never be filled;

NOW, THEREFORE, BE IT RESOLVED, That the sympathy of the Alabama Legislature be and is hereby extended to the families of the two men who met death today in the frozen wastelands of the north, and the Clerk of the House be instructed to send a copy of this resolution to the families of Rogers and Post.

Approved August 26, 1935.

No. 264)

(S. 326—Starnes.

### AN ACT

To declare all toll bridges and toll ferries connected with or forming a part of any State or County public highway in the State of Alabama to be public utilities; to impose upon such toll bridges and toll ferries all the public obligations and to give them all the rights and privileges applying to other public utilities under the provisions of the Alabama Public Utility Act of 1920; and to make such toll bridges and toll ferries subject to regulation by the Public Service Commission in like manner as other public utilities are subject to regulation by said Commission under said Act.

*Be it Enacted by the Legislature of Alabama:*

Section 1. All toll bridges and toll ferries, connected with or forming a part of any State or County public highway in this State, are declared to be public utilities.

Section 2. All such toll bridges and toll ferries herein declared to be public utilities are hereby made subject to like public obligations and are given like rights and privileges as apply in the case of other utilities under the Alabama Public Utility Act of 1920.

Section 3. Such toll bridges and toll ferries are hereby made subject to regulation as public utilities by the Public Service Commission in all respects as other utilities are made subject to regulation by said Commission under said Alabama Public Utility Act of 1920.

Section 4. Such toll bridges and toll ferries shall pay annually, on or before February 1st of each year, a fee for the inspection and supervision of such business, to be measured and determined, and applied and used in like manner as now applies in the case of other utilities subject to said Alabama Public Utility Act of 1920, except that in the case of such toll bridges and toll ferries, the minimum inspection and supervision fee to be paid for any one year shall be five dollars.

Section 5. All laws and parts of law in conflict with this Act are hereby repealed.

Section 6. This Act shall become effective on the approval of the Governor.

Approved August 26, 1935.

No. 265)

(H. 118—Todd.

## AN ACT

To Provide For A License Inspector In All Counties In The State Of Alabama Having More Than One Hundred Fifty Thousand Population, According To The Last Or Any Succeeding Federal Census; To Fix His Compensation And Define His Duties.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That in all counties in this State having a population of more than one hundred fifty thousand, according to the last or any succeeding Federal census, the Governor of Alabama shall appoint a License Inspector, who shall hold office at the pleasure of the Governor and be removable by the Governor with or without cause at any time.

Section 2. Out of the fees, charges and costs now authorized by law to be collected by the License Inspector such License Inspector shall receive a salary of three hundred dollars per month, and clerical help, and all deputy inspectors serving citations or warrants on delinquent license tax payers shall hereafter be paid on a salary basis approved by the Governor and not otherwise, and the remainder of the fees, charges and cost collected by such License Inspector shall be paid into the State and County Treasuries, respectively, one-third of the same being paid into the County Treasury and two-thirds of the same being paid into the State treasury.

Section 3. Said License Inspector shall perform such duties as the law now requires License Inspectors to perform, and such other and further duties as may be prescribed by the State treasury.

Section 4. This Act shall take effect upon its approval by the Governor and all laws and parts of laws in conflict therewith are hereby specially repealed.

Approved August 21, 1935.

No. 266)

(H. 512—Kelly.

## AN ACT

To Amend an Act "To require that all county officers in all counties which now have or may hereafter have a population of less than eighteen thousand according to the last or any subsequent Federal Census to pay premium on official bond" approved April 4, 1933—being House Bill No. 275, page 102 of General & Local Acts of Alabama, extra session 1933.

*Be it Enacted by the Legislature of Alabama:*

Section 1—That an act: "To require that all County officers in all counties which now have or may hereafter have a population of less than eighteen thousand according to the last or any sub-



sequent Federal Census to pay premium on official bond" be amended so as to read as follows: Section 1—That all county officers in all counties which now have or may hereafter have a population of less than twelve thousand according to the last or any subsequent Federal Census be and they are hereby required to pay the premium on their official bonds.

Section 2—That all laws and parts of laws in conflict with the provisions of this act are hereby expressly repealed.

Section 3—That this Act shall become effective upon its approval by the governor.

Approved August 26, 1935.

No. 269)

(H. 786—Connor

### AN ACT

To amend Section 11 of an Act of the Legislature approved August 15, 1923, entitled "An Act to amend an Act approved September 25th, 1915, entitled: 'An Act to provide for the government by a commission of all cities in Alabama which now have or which may hereafter have a population of one hundred thousand people or more, according to the last Federal census or any such census which may hereafter be taken, when such cities by an election adopt the provisions of this Act; to provide for the selection and election of commissioners and their terms of office; to fix their powers, duties and compensation; to punish improper conduct in connection with the election of said commissioners and to otherwise provide for the creation, conduct and maintenance of said commission form of government, and to repeal all laws and parts of laws in conflict with the provisions of this Act; and to provide for the going into effect of the various sections of said Act as amended;'" to provide for the qualifications, appointments, selection, employment, terms, regulations, compensation and removal of certain employees in such cities.

*Be it Enacted by the Legislature of Alabama:*

Section 1. Section 11 of an Act of the Legislature approved August 15, 1923, entitled: "An Act to amend an Act approved September 25th, 1915, entitled: 'An Act to provide for the government by a commission of all cities in Alabama which now have or which may hereafter have a population of one hundred thousand people or more, according to the last Federal census or any such census which may hereafter be taken, when such cities by an election adopt the provisions of this Act; to provide for the selection and election of commissioners and their terms of office; to fix their powers, duties and compensation; to punish improper conduct in connection with the election of said commissioners and to otherwise provide for the creation, conduct and maintenance of the said commission form of government, and to repeal all laws and parts of laws in conflict with the provisions of this Act;'" and to provide for the going into effect of the various sections of said Act

as amended," be and the same is hereby amended to read as follows: Section 11. Every city organized under the provisions of this Act shall be governed and managed by a commission of three members, the selection and election of which are provided for by this Act. Each and every officer and employee of said city except those in departments specifically excluded from the control of said commission, shall be selected and employed by the commission or under its direction, and all salaries and wages paid by said city shall be fixed by said commission, except as is herein otherwise provided and subject to the express proviso in this section. The commission shall prescribe and may at any time change the powers, duties and titles of all subordinate officers and employees of said city, subject to the control of said commission; and all of said officers and employees shall hold office and be removable at the pleasure of the commission, except as herein otherwise provided and subject to the express proviso in this section. The proviso herein above referred to being that the qualifications, appointments, selection, employment, terms, regulations, compensation and removal of such officers and employees now and which may hereafter be under the control of said commission shall be subject to any and all laws and regulations now in effect or which may hereafter become effective pertaining to such matters for such officers and employees, or any divisions or departments thereof.

Section 2. If any provision, sentence, clause or part of this Act be held unconstitutional or invalid, it shall not affect or invalidate the remainder of this Act.

Section 3. All laws and parts of laws inconsistent with or in conflict with the provisions of this Act are hereby repealed.

Section 4. This Act shall take effect immediately upon its enactment.

Approved August 20, 1935.

No. 271)

(S. 182—Walton

### AN ACT

To regulate the practices of professional engineering including land surveying; creating a State Board of Registration for Professional Engineers and Land Surveyors; defining its powers and duties; also imposing certain duties upon the State and political sub-divisions thereof in connection with public work; providing penalties.

*Be it Enacted by the Legislature of Alabama:*

Section 1. GENERAL PROVISIONS.—That in order to safeguard life, health, and property, any person practicing or offering to practice the professions of engineering or of land surveying, shall hereafter be required to submit evidence that he is qualified so to

practice and shall be registered as hereinafter provided; and it shall be unlawful for any person to practice or to offer to practice the professions of engineering or of land surveying, in this State, or to use in connection with his name or otherwise assume, use, or advertise any title or description tending to convey the impression that he is a professional engineer or a land surveyor, unless such person has been duly registered or exempted under the provisions of this Act.

Section 2. DEFINITIONS.—The term “professional engineer” as used in this Act shall mean a person who, by reason of his knowledge of mathematics, the physical sciences, and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in engineering practice as hereinafter defined. The practice of professional engineering within the meaning and intent of this Act includes any professional service, such as consultation, investigation, evaluation, planning, design, or responsible supervision of construction in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects, wherein the public welfare, or the safeguarding of life, health or property is concerned or involved when such professional service requires the application of engineering principles and data. The term “land surveyor” as used in this Act shall mean a person who engages in the practice of land surveying as hereinafter defined. The practice of land surveying within the meaning and intent of this Act includes surveying of areas and underground mine workings for their correct determination and description and for conveyancing, or for the establishment or re-establishment of land boundaries and the plotting of lands and subdivisions thereof. The term “Board” as used in this Act shall mean the State Board of Registration for Professional Engineers and Land Surveyors, provided for by this Act. Provided, however, that any person or persons regularly employed by any transportation company, or public utility company subject to regulation by the Alabama Public Service Commission shall not be considered as engaging in the practice of professional engineering or land surveying as defined in this Act.

Section 3. STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS.—APPOINTMENT OF MEMBERS.—TERMS.—A State Board of Registration for Professional Engineers and Land Surveyors is hereby created whose duty it shall be to administer the provisions of this Act. The Board shall consist of five professional engineers, who shall be appointed by the Governor from among nominees recommended by the representative National Professional Engineering Societies in the State and shall have the qualifications required by Section 4. The members of the first Board shall be ap-

pointed within ninety days after the passage of this Act, to serve for the following terms: One member for one year, one member for two years, one member for three years, one member for four years, and one member for five years, from the date of their appointment, or until their successors are duly appointed and qualified. Every member of the Board shall receive a certificate of his appointment from the Governor and before beginning his term of office shall file with the Secretary of State his written oath or affirmation for the faithful discharge of his official duty. Each member of the Board first appointed hereunder shall receive a certificate of registration under this Act from said Board. On the expiration of the term of any member, the Governor shall in the manner hereinbefore provided appoint for a term of five years a registered professional engineer, having the qualifications required by Section 4, to take the place of the member whose term on said Board is about to expire. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been duly appointed and shall have qualified.

**Section 4.—QUALIFICATIONS OF MEMBERS OF BOARD.** Each member of the Board shall be a citizen of the United States and a resident of this State, and shall have been engaged in the practice of the profession of engineering for at least twelve years, and shall have been in responsible charge of important engineering work for at least five years.

**Section 5.—COMPENSATION AND EXPENSES OF BOARD MEMBERS.** Each member of the Board shall receive a nominal sum of five (5.00) dollars per diem when actually attending to the work of the Board or of any of its committees and for the time spent in necessary travel; and, in addition thereto, shall be reimbursed for all actual traveling, incidental and clerical expenses necessarily incurred in carrying out the provisions of this Act. Such compensation and expenses shall be paid as provided in Section 9 of this Act.

**Section 6.—REMOVAL OF MEMBERS OF BOARD.—VACANCIES.** The Governor may remove any member of the Board for misconduct, incompetency, neglect of duty, or for any other sufficient cause. Vacancies in the membership of the Board shall be filled for the unexpired term by appointment by the Governor only as provided in Section 3.

**Section 7.—ORGANIZATION AND MEETINGS OF THE BOARD.** The Board shall hold a meeting within thirty days after its members are first appointed, and thereafter shall hold at least two regular meetings each year. The two regular meetings of the Board shall be held in the City of Montgomery and this shall be the legal office of the Board. Special meetings shall be held at such time and place as the by-laws of the Board may pro-

vide. Notice of all meetings shall be given in such manner as the by-laws may provide. The Board shall elect or appoint annually the following officers: A Chairman, a Vice-Chairman, and a Secretary. A quorum of the Board shall consist of not less than three members.

Section 8.—**POWERS OF THE BOARD.**—The Board shall have the power to make all by-laws and rules, not inconsistent with the Constitution and Laws of this State, which may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it. The Board shall adopt and have an official seal. In carrying into effect the provisions of this Act, the Board may, under the hand of its Chairman and the seal of the Board, subpoena witnesses and compel their attendance, and may also require the production of books, papers, documents, etc; in a case involving the revocation of registration or practicing or offering to practice without registration. Any member of the Board may administer oaths or affirmation to witnesses appearing before the Board. If any person shall refuse to obey any subpoena so issued, or shall refuse to testify or produce any books, papers, or documents, the Board may present its petition to the Circuit Court of Montgomery County, setting forth the facts, and thereupon such Circuit Court of Montgomery County shall, in a proper case, issue its subpoena to such person, requiring his attendance before such Circuit Court of Montgomery County and there to testify or to produce such books, papers and documents, as may be deemed necessary and pertinent by the Board. Any person failing or refusing to obey the subpoena or order of the said Circuit Court of Montgomery County may be proceeded against in the same manner as for refusal to obey any other subpoena or order of the Circuit Court of Montgomery County.

Section 9.—**RECEIPTS AND DISBURSEMENTS.** The Secretary of the Board shall receive and account for all moneys derived under the provisions of this Act, and shall pay the same monthly to the State Treasurer, who shall keep such monies in a separate fund to be known as the "Professional Engineers Fund." Such fund shall be kept separate and apart from all other monies in the Treasury, and shall be paid out only by warrant of the State Auditor upon the State Treasurer, upon itemized vouchers, approved by the Chairman and attested by the Secretary of the Board. All moneys in the "Professional Engineers Fund" are hereby specifically appropriated for the use of the Board. The Secretary of the Board shall give a surety bond to this State in such sum as the Board may determine. The premium on said bond shall be regarded as a proper and necessary expense of the Board, and shall be paid out of the "Professional Engineers Fund." The Secretary of the Board shall receive such salary as the Board shall determine in addition to the compensation and expenses provided

for in Section 5. The Board may employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures of this fund for any purpose which in the opinion of the Board is reasonably necessary for the proper performance of its duties under this Act, including the expense of the Board's delegates to annual convention of, and membership dues to, the National Council of State Boards of Engineering Examiners. Under no circumstances shall the total amount of warrants issued by the State Auditor in payment of the expenses and compensation provided for in this Act exceed the amount of the examination and registration fees collected as herein provided.

**Section 10.—RECORDS AND REPORTS.**—The Board shall keep a record of its proceedings and a register of all applications for registration, which register shall show (a) the name, age, and residence of each applicant; (b) the date of the application; (c) the place of business of such applicant; (d) his educational and other qualifications; (e) whether or not an examination was required; (f) whether the applicant was rejected; (g) whether a certificate of registration was granted; (h) the date of the action of the Board; and (i) such other information as may be deemed necessary by the Board. The records of the Board shall be prima facie evidence of the proceedings of the Board set forth therein, and a transcript thereof, duly certified by the Secretary of the Board under seal, shall be admissible in evidence with the same force and effect as if the original were produced. Annually, as of December 31st, the Board shall submit to the Governor a report of its transactions of the preceding year, and shall also transmit to him a complete statement of the receipts and expenditures of the Board, attested by its Chairman and its Secretary.

**Section 11. ROSTER OF REGISTERED ENGINEERS AND SURVEYORS.**—A roster showing the names and places of business of all registered professional engineers and all registered land surveyors shall be prepared by the Secretary of the Board during the month of March of each year, commencing one year from the date this law becomes effective. Copies of this roster shall be mailed to each person so registered, placed on file with the Secretary of State, and furnished to the public upon request.

**Section 12.—GENERAL REQUIREMENTS FOR REGISTRATION.**—The following shall be considered as minimum evidence satisfactory to the Board that the applicant is qualified for registration as a professional engineer, or land surveyor, respectively, to-wit: (1) As a professional engineer: a.—Graduation from an approved course in engineering of four years or more in a school or college approved by the Board as of satisfactory standing; and a specific record of an additional four years or more of active practice in engineering work of a character satisfactory to the Board, and indicating that the applicant is competent to be

placed in responsible charge of such work; or b.—Successfully passing a written, or written and oral, examination designed to show knowledge and skill approximating that attained through graduation from an approved four year engineering course; and a specific record of eight years or more of active practice in engineering work of a character satisfactory to the Board and indicating that the applicant is competent to be placed in responsible charge of such work. (2) As a land surveyor: a.—Graduation from an approved course in surveying in a school or college approved by the Board as of satisfactory standing; and an additional two years or more of active practice in land surveying work of a character satisfactory to the Board and indicating that the applicant is competent to be placed in responsible charge of such work: or b.—Successful passing a written and oral, examination in surveying prescribed by the Board; and a specific record of six years or more of active practice in land surveying work of a character satisfactory to the Board and indicating that the applicant is competent to be placed in responsible charge of such work. At any time within five years after this act becomes effective the Board may accept as evidence that the applicant is qualified for registration as a professional engineer a specific record of twelve years or more of lawful active practice in engineering work of a character satisfactory to the Board and indicating that the applicant is qualified to design or to supervise construction of engineering works and has had responsible charge of important engineering work for at least five years and provided applicant is not less than thirty-five years of age. At any time within five years after this Act becomes effective the Board may accept as evidence that the applicant is qualified for registration as a land surveyor a specific record of ten years or more of lawful active practice in land surveying work of a character satisfactory to the Board and indicating that the applicant has had responsible charge of important land surveying work for at least five years and provided applicant is not less than thirty years of age. After this Act shall have been in effect five years, the Board shall issue Certificates of Registration only to those applicants who meet the requirements of Section 12, 1 (a) or (b) or 2 (a) or (b)., or Section 21. Provided, that no person shall be eligible for registration as a professional engineer, or land surveyor, who is not of good character and reputation. In considering the qualifications of applicants, responsible charge of engineering teaching may be construed as responsible charge of engineering work. The satisfactory completion of each year of an approved course in engineering in a school or college approved by the Board as of satisfactory standing, without graduation, shall be considered as equivalent to a year of active practice. Graduation in a course other than engineering from a college or university of recognized standing shall be considered as equivalent

lent to two years of active practice; provided, however, that no applicant shall receive credit for more than four years of active practice because of educational qualifications. The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as a foreman or superintendent shall not be deemed to be active practice in engineering work. Any person having the necessary qualifications prescribed in this Act to entitle him to registration shall be eligible for such registration though he may not be practicing his profession at the time of making his application.

**Section 13.—APPLICATION AND REGISTRATION FEES.**—Applications for registration shall be on forms prescribed and furnished by the Board, shall contain statements made under oath, showing the applicant's education and detail summary of his technical work, and shall contain not less than five references, of whom three or more shall be engineers having personal knowledge of his engineering experience. The registration fee for professional engineers shall be twenty-five dollars (\$25.00), fifteen (\$15.00) dollars of which shall accompany application, the remaining ten (\$10.00) dollars to be paid upon issuance of certificate. When a Certificate of Qualification issued by the National Bureau of Engineering Registration is accepted as evidence of qualification, the total fee for registration as professional engineer shall be ten (\$10.00) dollars. The registration fee for persons who qualify, both as professional engineer and as a land surveyor, shall be twenty-five (\$25.00) dollars, fifteen (\$15.00) dollars of which shall accompany application, the remaining ten (\$10.00) dollars to be paid upon issuance of certificate as "Professional Engineer and Land Surveyor." The registration fee for land surveyors shall be five (\$5.00) dollars, which shall accompany application. Should the Board deny the issuance of a certificate of registration to any applicant the initial fee deposited shall be retained as an application fee.

**Section 14.—EXAMINATION.**—When oral or written examinations are required, they shall be held at such time and place as the Board shall determine. The scope of the examinations and the methods of procedure shall be prescribed by the Board with special reference to the applicant's ability to design and supervise engineering works, which shall insure the safety of life, health and property. Examinations shall be given for the purpose of determining the qualifications of applicants for registration separately in professional engineering and in land surveying. A candidate failing on examination may apply for re-examination at the expiration of six months and will be re-examined without payment of additional fee. Subsequent examination will be granted upon payment of a fee to be determined by the Board.



**Section 15.—CERTIFICATES.** The Board shall issue a certificate of registration upon payment of registration fee as provided for in this Act, to any applicant who, in the opinion of the Board, has satisfactorily met all the requirements of this Act. In case of a registered engineer, the certificate shall authorize the practice of "professional engineering," and in the case of a registered land surveyor, the certificate shall authorize the practice of "land surveying," and in the case of a registered engineer and land surveyor, the certificate shall authorize the practice of "professional engineering and land surveying." Certificates of registration shall show the full name of the registrant, shall have a serial number, and shall be signed by the Chairman and the Secretary of the Board under seal of the Board. The issuance of a certificate of registration by this Board shall be evidence that the person named therein is entitled to all the rights and privileges of a registered professional engineer, or of a registered land surveyor, or both, while the said certificate remains unrevoked or unexpired. Plans, specifications, plats, and reports issued by a registrant shall be endorsed with his name and license number, during the life of registrant's certificate, but it shall be unlawful for anyone to endorse any documents with said name and license number after the certificate of the registrant named thereon has expired or has been revoked, unless said certificate shall have been renewed or re-issued.

**Section 16.—EXPIRATIONS AND RENEWALS.**—Certificates of registration shall expire on the last day of the month of December following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the Secretary of the Board to notify every person registered under this Act, of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for one year: such notice shall be mailed at least one month in advance of the date of the expiration of said certificate. Renewal may be affected at any time during the month of December by the payment of a fee of five (\$5.00) dollars. The failure on the part of any registrant to renew his certificate annually in the month of December as required above shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of December shall be increased ten per cent for each month or fraction of a month that payment of renewal is delayed: provided, however, that the maximum fee for delayed renewal shall not exceed twice the normal renewal fee.

**Section 17.—FIRMS, PARTNERSHIPS AND CORPORATIONS.**—A Firm, Corporation or Partnership may engage in the practice of professional engineering or land surveying in this State; provided the person or persons connected with such Firms, Corporations or Partnerships in responsible charge of such practice is

or are registered as herein required, or is or are otherwise authorized to practice as provided in Section 20 of this Act. The same exemptions shall apply to firms, corporations and partnerships as apply to individuals under this Act.

**Section 18.—PRACTITIONERS AT TIME ACT BECAME EFFECTIVE.**—At any time within one year after this Act becomes effective, upon due application therefore, and the payment of the registration fee of twenty-five (\$25.00) dollars for professional engineers, of five (\$5.00) dollars for land surveyors, or twenty-five (\$25.00) dollars for professional engineers and land surveyors, the Board shall issue a certificate of registration, without oral or written examination, to any professional engineer or land surveyor who shall submit evidence under oath satisfactory to the Board that he is of good character, has been a resident of the State of Alabama for at least one year immediately preceding the date of his application, and was practicing professional engineering if an engineer, or land surveying if a surveyor, at the time this Act became effective, and has had responsible charge of work of a character satisfactory to the Board. After this Act shall have been in effect one year, the Board shall issue certificates of registration only as provided for in Section 12 or Section 21 thereof.

**Section 19.—PUBLIC WORK.** After one year immediately following the passage of this Act, it shall be unlawful for this State, or for any of its political subdivisions, for any county, city or town to engage in the construction of any public work involving professional engineering, unless the plans and specifications and estimates have been prepared by and the construction executed under the direct supervision of a registered professional engineer; provided, that nothing in this Section shall be held to apply to any public work wherein the contemplated expenditure for the completed project does not exceed ten thousand (\$10,000.00) dollars.

**Section 20.—EXEMPTIONS.**—The following persons shall be exempt from the provisions of this Act, to wit: (a) A person not a resident of and having no established place of business in this State, practicing or offering to practice herein the profession of engineering or land surveying, when such practice does not exceed in the aggregate more than sixty days in any calendar year; provided, such person is legally qualified by registration to practice the said profession in his own State or Country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this Act. (b) A person not a resident of and having no established place of business in this State, or who has recently become a resident thereof, practicing or offering to practice herein for more than sixty days in any calendar year the profession of engineering or land surveying, if he shall have filed with the Board an application for a cer-

tificate of registration and shall have paid the fee required by this Act. Such exemption shall continue only for such time as the Board requires for the consideration of the application for registration; provided, that such a person is legally qualified to practice said profession in his own State or Country in which the requirement and qualifications for obtaining a certificate of registration are not lower than those specified in this Act. (c) An employee or a subordinate of a person holding a certificate of registration under this Act, or an employee of a person exempted from registration by Classes (a) and (b) of this Section; provided, his practice does not include responsible charge of design or supervision. (d) Officers and employees of the Government of the United States while engaged within this State in the practice of the profession of engineering or land surveying, for said Government.

**Section 21.—RECIPROCITY.**—The Board may, upon application therefor, and the payment of a fee of ten (\$10.00) dollars, issue a Certificate of Registration as a Professional Engineer to any person who holds a Certificate of Qualification or Registration issued to him by proper authority of the National Council of State Boards of Engineering Examiners, or of the National Bureau of Engineering Registration, or of any State or Territory or Possession of the United States, or any Country, provided that the requirements for the registration of professional engineers under which said Certificate of Qualification or Registration was issued do not conflict with the provisions of this Act and are of a standard not lower than that specified in Section 12 of this Act.

**Section 22.—REVOCATIONS AND RE-ISSUANCES OF CERTIFICATES.**—The Board shall have the power to revoke the certificate of registration of any registrant who is found guilty of: (a) The practice of any fraud or deceit in obtaining a certificate of registration; (b) Any gross negligence, incompetency, or misconduct in the practice of professional engineering or land surveying as a registered professional engineer or land surveyor. Any person may prefer charges of fraud, deceit, gross negligence, incompetency, or misconduct against any registrant. Such charges shall be in writing, and shall be sworn to by the person making them and shall be filed with the Secretary of the Board. All charges, unless dismissed by the Board as unfounded or trivial, shall be heard by the Board within three months after the date on which they shall have been preferred. The time and place for said hearing shall be fixed by the Board, and a copy of the charges, together with a notice of the time and place of the hearing, shall be personally served on, or mailed to the last known address of, such registrant, at least thirty days before the date fixed for the hearing. At any hearing, the accused registrant shall have the right to appear personally and by counsel, to cross-examine wit-

nesses appearing against him, and to produce evidence and witnesses in his own defense. If, after such hearing, three or more members of the Board vote in favor of finding the accused guilty, the Board shall revoke the certificate of registration of such registered professional engineer or land surveyor. Any applicant whose certificate has been revoked as above may apply for a review of the proceedings with reference to such revocation of his certificate by the Circuit Court of Montgomery and from there by appeal to the Supreme Court of Alabama. The only record to be considered in such appeal shall be the record made before the Board. The Board, for reasons it may deem sufficient, may re-issue a certificate of registration to any person whose certificate has been revoked, providing three or more members of the Board vote in favor of such re-issuance. A new certificate of registration, to replace any certificate revoked, lost, destroyed, or mutilated, may be issued, subject to the rules of the Board, and a charge of three (\$3.00) dollars shall be made for such issuance.

Section 23.—VIOLATIONS AND PENALTIES.—Any person who shall practice, or offer to practice the profession of engineering or land surveying in this State without being registered or exempted in accordance with the provisions of this Act, or any person presenting or attempting to use as his own the certificate of registration of another, or any person who shall give any false or forged evidence of any kind to the Board or to any member thereof in obtaining a certificate of registration, or any person who shall falsely impersonate any other registrant of like or different name, or any person who shall attempt to use an expired or revoked certificate of registration, or any person who shall violate any of the provisions of this Act, shall be guilty of a misdemeanor, and shall upon conviction, be sentenced to pay a fine of not less than one hundred (\$100.00) dollars, nor more than five hundred (\$500.00) dollars, or suffer imprisonment for a period of not exceeding three months, or both. Any firm, partnership or corporation which shall engage in the practice of professional engineering or land surveying in the State when the person or persons connected with such firm, partnership or corporation in responsible charge of such practice is or are not registered as provided in this Act, in violation of the provisions of Section 17 of this Act, shall be guilty of a misdemeanor, and shall upon conviction, be fined not less than one hundred (\$100.00) dollars and not more than five hundred (\$500.00) dollars. It shall be the duty of all duly constituted officers of the law of this State, or any political sub-division thereof, to enforce the provisions of this Act and to prosecute any persons, firms, partnerships or corporations violating same. The Attorney General of the State or his assistant shall act as legal adviser of the Board and render such legal as-

sistance as may be necessary in carrying out the provisions of this Act.

Section 24.—**SAVING CLAUSE.**—This Act shall not be construed to effect or prevent the practice of any other legally recognized profession.

Section 25.—**INVALID SECTIONS.**—If any Section or Sections of this Act shall be declared unconstitutional or invalid, this shall not invalidate any other Sections of this Act.

Section 26.—**REPEAL OF CONFLICTING LEGISLATION.**—All laws or parts of laws in conflict with the provisions of this Act shall be, and the same are hereby repealed.

Section 27.—**EFFECTIVE DATE.**—This Act shall take effect upon the approval of the Governor.

Approved September 2, 1935.

No. 276)

(S. 362—Woodall.

## AN ACT

To create an Armory Commission for the State of Alabama and to authorize the persons named therein to form and organize a corporation to be known as the "Armory Commission of Alabama"; to specify and define its authority and duties; to authorize said Commission when incorporated to construct and maintain armories, drill and training areas for the National Guard and Naval Militia and their various units; to authorize municipalities, counties, the State and others to co-operate in and about the construction of armories, the providing of drill and training areas and to assist in paying therefor; to authorize municipalities and counties to convey to The Armory Commission of Alabama lands owned by them on which to construct such armories, whether such lands already be used for parks or other purposes; to authorize The Armory Commission of Alabama to finance, or refinance armory buildings that have already been constructed, to finance the improvement of such armories, and to authorize The Armory Commission of Alabama to finance the construction of other or further or additional armories; and to authorize the Governor of Alabama, in his discretion, to use a part of any appropriation made for military purposes for the purpose of paying any deficit of principal or interest under any plan of financing or refinancing, adopted by The Armory Commission of Alabama for the financing, or refinancing, of armories already in existence, the construction of, improvements to or additions to, such armories already in existence and the construction of new and additional armories.

*Be it Enacted by the Legislature of Alabama:*

Section 1. **ORGANIZATION OF ARMORY COMMISSION:** There is hereby created a body to be known as the "Armory Commission of Alabama," the members of which shall be the Governor of Alabama, who shall be its chairman, the Adjutant General of Alabama, the Attorney General of Alabama, the three highest ranking Line Officers on the active list of the Alabama National Guard, together with three duly qualified electors of Ala-

bama, to be appointed by the Governor and to serve at the pleasure of the Governor.

Section 2. ARMORY COMMISSION A CORPORATE BODY: When said Commission above named shall have been duly appointed it may, by filing with the Secretary of State of the State of Alabama, become a public body and a body corporate when the members of the Commission shall present to the Secretary of State of the State of Alabama an application signed by them which shall set forth (1) the name, official designation and official residence of each of the members of said Commission, together with a copy of the appointment by the Governor evidencing their right to hold office, the date and place of induction into and the taking of the oath of office, and that they desire the Commission to become a body corporate and politic under this Act; (2) the name which is proposed for the corporation; (3) the location of the principal office of the proposed corporation and (4) any other matters relating to the incorporation which the members may choose to insert not inconsistent with the Constitution and laws of the State of Alabama. The application shall be subscribed and sworn to by each of said members, except the Governor, before an officer authorized by the laws of the State of Alabama to take and certify oaths, who shall certify upon the application that he or she personally knows the members and believes them to be the officers as asserted in the application and that each subscribed and swore thereto in the presence of the officer. Thereupon the Secretary of State shall examine the application and if he finds that the name proposed for the corporation is not identical with that of a person or of any other corporation of this State or so nearly similar as to lead to confusion and uncertainty he shall receive and file it and shall record it in his office and when said application has been made, filed and recorded as herein provided, the said Armory Commission of Alabama shall constitute a corporation under the name proposed in the application and the Secretary of State of the State of Alabama shall make and issue said members a certificate of incorporation pursuant to this Act under the Seal of the State and shall record the same with the application. The corporation shall have succession by its corporate name for thirty years and thereafter until all its liabilities have been finally paid and discharged.

Section 3. POWERS OF CORPORATION: Said Commission may in its corporate name sue and be sued, contract and be contracted with, acquire real and personal property by gift, purchase or condemnation; and may do all things and exercise all rights and powers reasonably necessary to carry out and perform the duties intended or required by this Act. The members shall serve without compensation and shall be allowed their reasonable expenses incurred in attending meetings of the Commission or

while traveling under orders for the performance of duty in connection with the business of said Commission. Said Commission shall hold regular or special meetings at Montgomery or other designated places at the discretion and on call of the Governor, after reasonable notice. A majority of the members shall constitute a quorum for the consideration of business, but all contracts and agreements creating liabilities or indebtedness against, or requiring appropriations from, the Armory Fund, shall require the affirmative vote of a majority of all members of the Commission.

Section 4. FINANCING OF ARMORIES: The Armory Commission of Alabama is hereby authorized, in addition to all other powers and authority granted herein, to finance or refinance any armory buildings or structures now in existence; to finance or refinance improvements to or additions to such armories already in existence; to finance the construction and maintenance of new or additional armories; and The Armory Commission of Alabama is hereby vested with the full authority and power to finance or refinance armories already in existence, and to finance the construction of improvements or additions to such armories already in existence, and to finance the construction of such new or additional armories by or through any plan or plans of finance or refinance acceptable to or adopted by the said Armory Commission; and the said Armory Commission is authorized to provide for such financing or refinancing by the sale of bonds, by the matching of funds donated or loaned by any agency of the Federal Government, or by any other plan of finance or refinance acceptable to and adopted by the said Commission, it being intended herein to vest in the Armory Commission of Alabama, full, complete and exclusive authority, not inconsistent with the Constitution of Alabama, to select and put into effect any feasible plan of finance or refinance the said Commission may adopt.

Section 5. PAYMENTS FROM MILITARY FUNDS: The Governor of Alabama, in his discretion, is hereby vested with the full authority and power to pay any deficit of either principal or interest, or both, under any plan of financing or refinancing adopted by the Armory Commission of Alabama for the financing or refinancing of armories already in existence, or improvements of or additions to such armories already in existence, or for the financing of the construction of new or additional armories; it being the intention of this section to vest in the Governor of Alabama the power to use any part of any appropriation made for military purposes for the purpose of assisting the Armory Commission in paying any deficit in principal or interest, or both, under any plan of finance or refinance adopted by the said Commission, such power to be used by the Governor of Alabama in his discretion.

Section 6. PROVIDING ARMORIES AND GROUNDS FOR TRAINING PURPOSES: The Armory Commission shall

provide adequate armories, buildings, grounds, and other training facilities for the National Guard and Naval Militia of Alabama, for the purpose of drill, instruction and administration, and for the safekeeping of public property of the State of Alabama and the United States, issued to or for the use of the Alabama National Guard and Naval Militia, including animals, and for such purpose shall be charged with the administration and expenditure of the Armory Fund. All expenditures from said fund authorized by the Commission shall be made upon vouchers authenticated by the Adjutant General and approved by the Governor.

**Section 7. ACQUIRING BUILDINGS AND GROUNDS FOR ARMORY AND TRAINING PURPOSES:** The Armory Commission may, either alone or in cooperation with the United States or political subdivisions of the State such as counties, cities or incorporated towns and private corporations, voluntary unincorporated associations or individuals, construct, or acquire by purchase, contract, lease, gift, donation, or condemnation, armories, buildings, or grounds, suitable for drill instruction and administration and the safekeeping of public property and make additions and improvements in or to such armories, and facilities, and either alone or with the like co-operation of others provide heat, light, water, telephone service, and other costs of operation and maintenance, including insurance. The amounts to be appropriated out of any Armory Funds for the construction and/or acquisition of armories, and for the maintenance and/or rental of armories shall, within the limits hereinbefore in this Section set forth, be wholly within the discretion of the Armory Commission.

**Section 8. JOINT USE OF PUBLIC BUILDINGS AND GROUNDS FOR ARMORIES AND TRAINING AREAS:** The governing body of any county and the governing body of any city or incorporated town wherein a unit or units of the Alabama National Guard and Alabama Naval Militia have been, or may hereafter be established, may either severally or acting jointly with each other, or with the Armory Commission, construct or acquire by purchase, contract, lease, gift, donation or condemnation, grounds and/or buildings which shall be suitable for public assemblages, conventions, exhibitions and entertainments; Provided; That such buildings, or the plans and specifications therefor, are first approved by the Armory Commission as suitable for use as armories by the Alabama National Guard or Alabama Naval Militia unit or units upon terms not inconsistent with this Act.

**Section 9. PUBLIC GROUNDS FOR ARMORY BUILDING PURPOSES:** Any municipality or county owning lands on which no permanent building has been actually constructed, whether such lands constitute part of a park or site for some public structure, is authorized to convey the same to the Armory Commission of Alabama for use as a site for an armory for the Ala-



bama National Guard or Naval Militia; Provided; That such conveyance will not prevent the reasonable use of any such structure for the purpose for which it was constructed.

Section 10. **MILITARY PROPERTY EXEMPT FROM TAXATION:** All property actually used for armory and military training purposes as hereinabove defined, shall be exempt from all taxation, import or assessment.

Section 11. **POWER OF CONDEMNATION:** The power of condemnation herein granted to the Armory Commission of Alabama, and to counties, cities and incorporated towns, shall be exercised in manner prescribed in the Code of Alabama.

Section 12. **USE AND DISPOSITION OF ARMORIES:** Whenever in the opinion of the Armory Commission it is practicable to do so, each armory of the National Guard or Naval Militia shall contain a room suitable for meetings of associations composed of veterans of the War Between the States, the Spanish-American War, and the World War, and shall be available for such meetings under such rules and regulations as may be prescribed by the Commanding Officer of the National Guard unit or units using such armory. The Armory Commission of Alabama may permit the use of any armory for assembly and other purposes of various patriotic and civic organizations such as Confederate Veterans, the Sons of Confederate and Federal Veterans, American Legion, Veterans of Foreign Wars, Daughters of the Confederacy, Chamber of Commerce, etc; as may be deemed advisable, where the use does not interfere with the use of the armory by the national Guard unit or units occupying same. When the unit or units of the National Guard or Naval Militia occupying an armory ceases to exist for any reason, the Armory Commission shall make a decision whether it is the best interest of the State to keep the armory or whether the same shall be sold and the proceeds deposited back in the Armory Fund, or if same should be rented and the proceeds placed in the Armory Fund. Any sales made must be public ones and have the time, place and terms of proposed sale advertised for one month prior to sale in at least six daily newspapers of the State of which at least three must be outside the county in which the armories are located, and each must be in different cities.

Section 13. **MANAGEMENT AND CARE OF ARMORIES:** That the Armory Commission shall also constitute a Board for the general management and care of armories, drill and training areas, when established and shall have the power to adopt and prescribe rules and regulations for the management and government, and formulate such rules for the guidance of the organizations occupying them as may be necessary and desirable; said rules not to conflict with the provisions of this Act. For each armory erected or provided the Governor shall appoint, with the advice of the

Armory Commission, a Board of Control to consist of one or more officers of organizations quartered therein. Such Board, or officer, of Control may rent the armory for temporary purposes subject to regulations to be prescribed by the Armory Commission, and the money derived from such rental shall be paid into the Treasury of the organization or organizations quartered therein.

Section 14. **SALE OR LEASE OF ARMORIES:** That when the aforesaid Armory Commission shall receive information from the Governor of the disbandment of an organization of the National Guard or Naval Militia of Alabama occupying or using an armory provided under the direction of the Armory Commission, it shall be the duty of said Commission to determine whether such armory shall be sold or not, and if it is determined that such armory shall be sold that, after due publication for the highest price to be paid for same, the proceeds of such sale shall be divided between the State, county and city as their interest may appear: Provided; That in case an armory becomes vacant by reason mentioned in this Section, the Armory Commission of the State may lease such armory for the period not to exceed one year, or, when duly authorized by the Governor, may lease the same for a period of years, the proceeds therefrom in either case to be turned into the Armory Fund.

Section 15. **CITY AND COUNTY AID FOR ARMORIES:** That every city and county in the State of Alabama now having, or that may hereafter have, an active National Guard or Naval Militia organization or organizations within its boundaries is hereby authorized and empowered to render such financial assistance as it may deem wise and patriotic to such National Guard or Naval Militia organization, either by donating such land or buildings, or donating the use of land or buildings, or by contributing money to their equipment and maintenance.

Section 16. **MAINTENANCE OF ARMORIES:** That in order that there shall be provided maintenance funds for armories and other buildings erected, and areas provided for drill and training and other military purposes under the provisions of this Act, the Adjutant General of this State is authorized to pay out of the "Regular Military Appropriations" sums equivalent to, or not more than, the whole sums now or hereafter appropriated by the State for the upkeep and maintenance of National Guard or Naval Militia organizations under the heading of "Maintenance for Headquarters and Organizations" authorized under the Military Code of Alabama, in the discretion of the Governor upon the advice of the Armory Commission of Alabama.

Section 17. **REVERSIONS OF DONATIONS:** That in the event that any real property is donated to a National Guard or Naval Militia organization, or organizations, which organization or organizations shall fail or refuse to use same, or shall, after

accepting same, be disbanded, the title to the real property thus donated shall revert to the person, county, city, or municipality donating the same as their interest may appear.

Section 18. APPROPRIATION: The Legislature of the State shall appropriate at each of its quadrennial sessions, or such other sessions as conditions may require, such sums of money not otherwise appropriated, as they may deem wise and advisable, or make other financial provisions, for the purpose of carrying out the provisions of this Act.

Section 19. If any section, paragraph, clause, or separate provision of this Act shall be held to be invalid, such fact shall not affect or render invalid any other section, paragraph, clause or separate provision of this Act, it being the intention of the Legislature in enacting this Act to enact each section, paragraph, clause and provision separately.

Section 20. This Act, and all and each of its various Sections and provisions, shall be liberally construed in favor of the purposes of the Act.

Section 21. All laws, or parts of laws, inconsistent, or in conflict with the provisions of this Act, are hereby repealed.

Approved August 23, 1935.

No. 280)

(S.J.R. 103—Thomas.

### SENATE JOINT RESOLUTION

BE IT RESOLVED by the Senate of Alabama and the House of Representatives Concurring, that the following memorial be sent to the President of the United States:—

WHEREAS, the farmers of Alabama have gone to great expense of producing this 1935 Cotton Crop it would be a great injustice to the farmers of the State of Alabama and the South to have to sacrifice this crop.

THEREFORE BE IT RESOLVED by the Senate of Alabama the House Concurring that we request the President of the United States to continue the 12c loan on cotton for the year 1935.

BE IT FURTHER RESOLVED that the Secretary of State be, and he is hereby, directed to telegraph this memorial to the President immediately upon its adoption.

Approved August 22, 1935.

No. 281)

(S. 97—Walton.

## AN ACT

To vest authority and power in the State Highway Commission to abandon and discontinue and to close grade crossings of State highways where such highways cross railroads or street railways within the State of Alabama.

*Be it Enacted by the Legislature of Alabama:*

Section 1. The State Highway Commission is given authority and power to abandon and discontinue any portion of a State Highway, or street on a state highway route with the approval of the City Council or governing body of any municipality, crossing the tracks or right of way of any railroad or street railway within the State, and to close the said grade crossing, whenever in the judgment of the Commission such grade crossing has ceased to be necessary for the public as a part of any State highway, because of relocation of any such highway, or because of the construction of an underpass or over-pass, or other provision made for the elimination of any such grade crossing. Whenever the Commission orders the abandonment of such portion of the highway or street and the closing of such grade crossing, it shall enter its order providing therefor on its minutes. Notice in writing of the abandonment and discontinuance of such portion of the highway or street and the closing of such grade crossing shall be given by the Commission by posting such notice on each side of the railroad or street railway at such grade crossing for a period of thirty days. Thereafter the railroad or street railway shall not be required to maintain such grade crossing for use as a public highway or street.

Section 2. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

Section 3. That this Act shall become effective immediately upon its approval by the Governor.

Approved August 27, 1935.

No. 282)

(H. 274—Douglass.

## AN ACT

To permit the use of voting machines for recording and computing the vote at all elections, including primaries in any county, city or town of the State of Alabama; prescribing regulations with reference to the adoption, requirements, purchase, installation, preparation, custody and demonstration of use of voting machines; providing rules and regulations for the conduct of elections held with voting machines; prescribing qualifications, number and duties of election officers in election districts in which voting machines may be used; placing duties upon County Commissioners, Board of Revenue, Election Commission, and other governing boards of

the counties, cities and towns; providing for redivision of wards of cities and towns into election districts and the consolidation of election districts; providing for the payment of expenses incident to the purchase and use of voting machines by the counties, cities and town in which they are used; and providing penalties for violation of the provisions of this Act.

*Be it enacted by the Legislature of Alabama:*

Section 1. DEFINITION OF TERMS. That the list of offices and candidates, and the statements of questions on the voting machine shall be deemed an "Official ballot". As used in this act: 1. The words "Ballot-labels" shall mean the cards, paper, or other material, containing the names of offices and candidates and statements of questions to be voted on. 2. The word "diagram" shall mean an illustration of the official ballot, when placed upon the machine, showing the names of the parties, offices, and candidates, and statements of the questions in their proper places, together with the voting devices therefor, and shall be considered a specimen ballot. 3. The word "question" shall mean a statement of such constitutional amendment or other proposition, as shall be submitted to a popular vote at any election. 4. The words "irregular ballot" shall mean the paper or other material on which a vote is cast on a voting machine for persons whose names do not appear on the ballot label. 5. The words "voting lever" shall mean those devices with which votes are indicated for candidates, or for or against questions. 6. The words "candidate counters" and "question counters" shall mean the counters on which are registered numerically the votes cast for candidates, and on questions, respectively. 7. The words "public counter" shall mean a counter or other device which shall, at all times, publicly indicate how many times the machine has been voted on at an election. 8. The words "protective counter" shall mean a counter or protective device or devices that will register each time the machine is operated, and shall be constructed and so connected that it cannot be reset, altered, or operated, except by operating the machine. 9. The words "voting machine booth" shall mean the enclosure occupied by the voter when voting. 10. The word "model" shall mean a mechanically operating model of a portion of the face of the machine, illustrating the manner of voting. 11. The word "custodian" shall mean the person charged with the duty of testing and preparing the voting machine for the election, and instructing the election officers in the use of the voting machine. 12. The words "election" and "elections", whenever used in this act, shall be held to include and mean all general, municipal, primary, bond, school, and special elections. 13. The words "voting district" or "voting districts", whenever used in this act shall be held to include and mean precincts—beats or boxes. 14. The words "election com-

mission", whenever used in this act, shall be held to include the election commission as now defined by law.

**Section 2. SETTING OUT REQUIREMENTS OF VOTING MACHINE.** Voting machines must be so constructed as to provide facilities for voting for such candidates, propositions and questions as may be legally placed on a ballot in the State of Alabama. It must also permit a voter in a general election to vote for any person for any office, whether or not nominated as a candidate by any party but whose name is legally on the ballot as an independent candidate, and must permit voting in absolute secrecy. It also must be so constructed that a voter cannot vote for a candidate or on a proposition for whom or on which he is not lawfully entitled to vote. It also must be so constructed as to prevent voting for more than one person for the same office and at the same time preventing his voting for the same person twice. It must be provided with a lock or locks, by the use of which immediately after the polls are closed or the operation of such machine for such election or primary is completed, any movement of the voting or registering mechanism is absolutely prevented. Such machine shall be equipped with a public counter and a protective counter.

**Section 3. ADOPTION OF VOTING MACHINES** (a) The County Commission, Board of Revenue, or like governing body of any county in the State of Alabama, may adopt for use in all elections in said county, voting machines meeting requirements of this act; and thereupon, such voting machines shall be used at any and all elections held in that county, or any part thereof designated, for voting, registering, and counting votes cast at such election, except as hereinafter provided. (b) In election districts where there are less than two hundred registered voters and the Election Commission is of the opinion that said election district cannot be conveniently consolidated with another election district, voting at all elections in such district may be conducted by paper ballots.

**Section 4. PROVIDING VOTING MACHINES, GENERALLY.** Where voting machines have been adopted for any county or any portion thereof, the County Commissioners or Board of Revenue of said county shall as soon as practicable, and in no case later than six months after adoption thereof, provide for each voting precinct designated, one or more approved voting machines in complete working order, and shall thereafter preserve and keep them in repair.

**Section 5. PAYMENT FOR VOTING MACHINES.** The County Commissioners or Board of Revenue shall provide for the payment of voting machines to be used in such county in such manner as they may deem for the best interest of the county. And for the purpose of paying for voting machines, such County Com-

missioners or Board of Revenue is hereby authorized to issue bonds as provided by Section 222 of the Constitution and the Bond Code as amended, certificates of indebtedness or other obligations, to be used for this purpose and no other, which shall be a charge against the county. Such bonds, certificates of indebtedness or other obligation may be issued with or without interest, payable at such time or times as the Commissioners or Board of Revenue may determine subject to the provisions of law governing same. Such voting machines shall be the property of the county paying for the same and when used in any election which the county is not charged by law with the holding of, such machines shall be leased to the authorities charged with holding such election, and payment shall be received by the county, at such lease price as the County Commissioners or Board of Revenue and Election Commission shall fix, but not to exceed ten per cent of the original cost of such voting machines as may be required to hold each election. Those charged with the holding of such election shall pay the lease price, whether it be a school board, a municipality, a political party or any other organization or authority.

Section 6. ABSENTEE VOTING. This act shall not in any way be construed as affecting absentee voting as provided by law in this State.

Section 7. FORM OF BALLOTS ON VOTING MACHINES. All ballots shall be printed in black ink on white, clear material, of such size as will fit the ballot frame, and in as plain, clear type as the space will reasonably permit. In general elections, the party name, party emblem and a designating letter and number shall be affixed to the name of each candidate and the name of all candidates of one political party shall be so arranged that a voter may be able to cast his ballot for such candidates as he may desire or to cast one ballot for all the candidates of that political party. In primary elections, however, the ballot shall be so arranged and the levers so locked as to prevent the voting of straight tickets, and should there be so many candidates file in a primary election as to exceed the capacity of one machine, more than one such machine shall be provided for each voting precinct, but in all cases where more than one machine is used in a voting precinct, the names of all candidates for any particular office shall be placed on one machine.

Section 8. SAMPLE BALLOTS. The authorities charged with holding the election or primary election shall provide for each precinct two sample ballots arranged in the form of a diagram showing such part of the face of the voting machine as shall be in use in that election or primary election. Such sample ballots shall be on display in each precinct voting place throughout the time the polls are open and attention shall be especially called to them before each voter uses machine.

**Section 9. PREPARATION OF VOTING MACHINES.** It shall be the duty of the Judge of Probate of each county where voting machines are used, to cause the proper ballot labels to be placed on voting machines, to cause the proper ballot labels to be placed on voting machines, to cause the machines to be placed in proper order for voting, to examine all voting machines in the presence of authorized watchers for any interested persons, before they are sent out to the polling places, to see that all the registering counters are set at zero (000), to lock, in the presence of authorized watchers, all voting machines so that the counting machinery cannot be operated and to seal each one with a numbered seal, a list of which numbered seals and the number on the protective counters, together with the number of the precinct to which it was sent, shall be kept as a permanent record open to any citizen, in the records of the Probate Judge. Such inspection and sealing of voting machines shall begin not later than 9 A.M. of the Saturday before any election at which such machines are to be used, and continue until all such machines are sealed. When all machines are locked and sealed, the key to each machine shall be placed in an envelope and sealed, the signature of the Judge of Probate and the signature of two watchers of opposed interest (if there be such) placed across the seal, and on the envelope shall be written the number then on the protective counter and the number on the seal of the voting machine, such envelope to be delivered to the presiding officer of each election district. It shall be the duty of the sheriff in an election which the county is charged with the expense of, the duty of the Mayor in a city election, the duty of the president of a school board in a school election and the duty of the authority holding an election of any character, to have delivered a voting machine or machines, together with an instruction model for each machine showing a portion of the face of such machine in use at such election, to each and every polling place where same is required by law to be used, at least one hour before the time set for the opening of the polls in such voting precinct. After the machine has been delivered, the same authority shall cause such machine to be set up in the proper manner and cause protection to be given so such machine shall be free from molestation and injury. The protective curtain shall be examined to see that they conceal the actions of the voter properly, while such voter is operating the machine. All poll lists and necessary supplies shall be delivered to the presiding officer at the same time the key or keys to the machine are delivered.

**Section 10. INSTRUCTION OF VOTERS BEFORE AN ELECTION.** During the thirty days next preceding an election, the County Commissioners or other governing authority under which such election is being held may place on public exhibition, in such public places and at such times as they may deem most



suitable for the information and instruction of the voters, one or more voting machines, containing the ballot-labels, and showing the offices and questions to be voted upon, the names and arrangements or parties, and, so far as practicable, the names and arrangement of the candidates to be voted for. Such machine or machines shall be under the charge and care of a person competent as custodian and instructor. No voting machine, which is to be assigned for use in an election, shall be used for such public exhibition and instructions, after having been prepared and sealed for the election.

Section 11. **DIAGRAMS FOR INSTRUCTION OF VOTERS BEFORE AN ELECTION.** Prior to any election, the Judge of Probate may cause copies of any diagram or diagrams, required to be furnished with voting machines at polling places, to be made, either in full size or in reduced size, and to be posted, published, advertised or distributed among the electors in such manner as he may deem desirable.

Section 12. **INSTRUCTION OF ELECTION OFFICERS.** Not less than three days before an election or primary election, the authority charged with holding the same, may cause to be held a public school of instruction for those will actually conduct the election or primary election at the polling places, such school to be open to any interested person and notice of such meeting being given to the public press at least 48 hours before same is to be held.

Section 13. **PRELIMINARIES OF OPENING THE POLLS.** The key or keys to the voting machine or machines shall be delivered to the presiding officer of each precinct at least thirty minutes before time for the opening of the polls, the seal of the envelope containing the same to be unbroken, and the seal shall be broken by the presiding officer only in the presence of at least two authorized watchers for opposing interests (if there be such), and shall only be broken after comparison shows that the number written on the envelope and the number shown in the protective counter are identical. If these numbers are found not to be the same the seal shall not be broken until the Judge of Probate or his representative shall arrive and deliver the correct keys or until another and properly sealed machine is delivered. If the numbers written on the envelope and the numbers on the seal of the machine are not identical, then the envelope shall not be opened and the same procedure as above set out shall govern. But if the numbers written on the envelope and the respective numbers on the seal and on the protective counter are found to be the same, the presiding officer shall open the doors concealing the counters, and before the polls are declared open, the election officials and each authorized watcher, or any person interested shall carefully examine each and every counter and see that it registers zero (000).

All of those last enumerated then shall examine the ballots and satisfy themselves they are in their proper places on the machine. The election officials shall cause to be conspicuously placed the sample ballots and model for the guidance of the voters. All the persons authorized to be in the polls shall satisfy themselves that the voting machine is properly placed, and that the face of the machine is turned toward where the election officials and the public may obtain a clear and unobstructed view of the same at all times, except when the curtain on the machine is closed for the casting of the ballot. The election officials and at least two watchers of opposing interests (if any there be) shall then sign a certificate setting out that the keys were delivered intact, that the numbers on the protective counter and the seal correspond with that on the envelope, that all the counters were set at zero (000), and that the ballot labels were in their proper places. If any counter, however, shall be found not to register zero (000), the presiding officer shall write out a statement to that effect and keep the same prominently posted throughout the day showing the number that counter was found to register, and in filling out the statement of canvas, he shall subtract such number from the number found to register on that counter when the polls close. The machine shall then be opened for voting and the polls formally declared on.

Section 14. GENERAL PROVISIONS. The presiding officer shall be in general charge of the poll and shall see that the clerk of the election properly marks off the name of each voter from the poll list before such voter casts his ballot, and shall keep such other records as are required by law. It shall be the duty of the third election official, besides the presiding officer and the clerk, to see that the voting machine is not tampered with and shall attend the machine at all times. Where two or more machines are used in the same election district, one additional official shall be appointed for each additional machine. He shall inspect the ballot labels after each voter leaves the machine to see that none have been tampered with and to see that the machine has not been injured. He shall see that the coverings of the counter compartments of the machine are never unlocked or opened so the counters are exposed during voting except for good and sufficient reasons, a statement of which shall be made and signed by all authorized persons in the polls and attached to the returns.

Section 15. INSTRUCTION AND ASSISTANCE FOR VOTERS AT THE POLLS. In addition to the sample ballots and models hereinbefore mentioned, which shall be prominently displayed and the particular attention of each voter called thereto by the presiding officer, if any voter shall desire further instructions or other help in the preparation of his ballot, that the same

shall be furnished to him in the same manner and method now provided for by the general laws of this State.

**Section 16. MANNER OF VOTING.** The election officers shall ascertain, as required by law, whether each applicant to vote is entitled to vote. If he is found to be entitled to vote, he shall be admitted within the voting machine booth, and shall be permitted to vote. No voter shall remain within the voting machine booth an unreasonable length of time, and, if he shall refuse to leave after a reasonable period, he shall be removed by the election officers; provided, however, that they may grant him a longer time, if other voters are not waiting to vote.

**Section 17. VOTING FOR PRESIDENTIAL ELECTORS.** At any general election, at which presidential electors are to be chosen, each elector shall be permitted to vote, by one operation, for all the presidential electors of a party. For each party nominating presidential electors, a ballot label shall be provided, containing only the words "Presidential Electors," preceded by the name of the party, and followed by the names of the candidates thereof for the offices of President and Vice-President, and the corresponding counter or registering device shall register votes cast for said electors when thus voted for collectively. If an elector desires to vote a ticket made up of the names of persons nominated by different parties, or partially of names of persons so in nomination and partially of names of persons not in nomination, or wholly of names of persons not in nomination by any party, he may write or deposit a paper ballot, prepared by himself, in the receptacle provided in or on the machine for the purpose. The machine shall be so constructed that it will not be possible for any one voter to vote a straight ticket for presidential electors, and at the same time to deposit a ballot for presidential electors, in a receptacle as hereinabove provided. When the votes for presidential electors are counted, the votes appearing upon the counter or registering device, corresponding to the ballot label, containing the names of the candidates for President and Vice-President of any party, shall be counted as votes for each of the candidates for presidential elector of such party, and thereupon all candidates for presidential electors shall be credited, in addition, with the votes cast for them upon the ballots deposited in the machine as hereinabove provided.

**Section 18. VOTING FOR PERSONS WHOSE NAME DOES NOT APPEAR ON THE BALLOT.** Ballots voted for any person whose name does not appear on the ballot shall be designated "irregular" ballots, but such ballots shall be valid and shall be counted as though they had been voted on the voting machine. Should a voter desire to vote for some person for an office whose name does not appear on the ballot, such person shall write the name of the person for whom he desires to vote

on the roll of paper provided and designated for such purpose and such ballot shall be counted and included in the canvass officially made from that precinct, but no irregular ballot shall be cast or counted for any person whose name shall appear on the voting machine.

Section 19. UNOFFICIAL BALLOTS, REPAIR AND SUBSTITUTION OF MACHINES. Should the official ballot for any precinct where voting machines are to be used be not delivered at the time required, or if after delivery shall be lost, destroyed or stolen, the County Clerk or the presiding officer of that precinct shall cause other ballots to be prepared, printed or written, as nearly in the form of the official ballot as practicable, and shall cause the ballots so substituted to be used in the same manner, as near as may be, as the official ballots. Such ballots shall be known as unofficial ballots, and a certificate setting out the circumstances of the use shall be made out by the presiding officer and signed by such officer together with every person legally serving in such poll, such certificate to be attached to the canvass from that precinct. Should any voting machine become out of order while being used, it shall, if possible, be repaired, or another machine substituted in its place as promptly as possible.

Section 20. CANVASS OF THE VOTE AND THE PROCLAMATION OF THE RESULT. When the time arrives for closing the polls, all qualified voters, who are then waiting within the voting room to vote, shall be permitted by the election officers to do so. As soon as the last voter has voted and the poll closed the election officials thereat shall immediately lock the machine against voting. They then shall sign a certificate stating that the machine was locked and sealed, giving the exact time; such certificate giving the number of voters shown on the public counters, which shall be the total number of votes cast on such machine in that precinct; the number on the seal; the number registered on the protective counter. They then shall open the counting compartment in the presence of the watchers, and at least one representative of any newspaper or press association which cares to be represented, giving full view of all the counter numbers. The presiding officer shall under the scrutiny of the watchers, in the order of the officer as their titles are arranged on the machines, read and announce in distinct tones the designating number and letter on each counter for each candidate's name, the result as shown by the counter numbers, and shall then read the votes recorded for each office on the irregular ballots. He shall also in the same manner announce the result on each Constitutional amendment, bond proposition or any other question voted on. The vote as registered shall be entered on the statements of canvass in ink by two watchers of opposing interest (if there be such) and verified by the election officials for said voting district, such

entries to be made in the same order on the space which has the same designating number and letter, after which the figures shall again be verified by being called off in the same manner from the counters of the machines by watchers of opposed interest (if there be such). The returns of the canvass as required by law shall then be filled out, verified, and shall show the number of votes cast for each candidate, the number of votes cast for and against any proposition submitted, and shall be signed by the election officials and at least two watchers of opposed interests (if such there be). The counter compartments of the voting machine shall remain open throughout the time of the making of all statements and certificates and the official returns and until such have been fully verified, and during such time any candidate or his representative or any representative of any newspaper shall be admitted. The proclamation of the result of the votes cast shall be deliberately announced in a distinct voice by the presiding officer, who shall read the names of each candidate, with the designating number and letter of his counter, and the vote registered on such counter; also the vote cast for and against each proposition submitted. During such proclamation ample opportunity shall be given to any person lawfully entitled to be in the polls to compare the results announced with the counter dials of the machine and any necessary corrections shall then and there be made, after which the doors of the voting machine shall be locked and sealed with the seal provided, so sealing the operating lever of the machine that the voting and counting mechanism will be prevented from operation. Irregular ballots, properly sealed, and signed shall be filed with the original statement of canvass, which canvass shall be delivered in the same manner and to the same authorities as now provided by law. The presiding officer shall deliver to the Judge of Probate the keys of the machine enclosed in a sealed envelope across the seal of which shall be written his own name together with that of at least two watchers of opposed interest (if such there be) or the other election officials, and on this envelope shall be recorded the date of the election, the number of the voting district, the number of the seal with which the machine was sealed, the number of the public counter and the number of the protective counter.

**Section 21. STATEMENTS OF CANVASS.** The authority charged with the holding of an election or primary election where voting machines shall be used, shall cause to be prepared a statement of canvass of a form to be approved by the Judge of Probate, in the necessary number as now required by law, such statement of canvass to conform with the type of voting machine to be used, and the designating number and letter of each candidate (or proposition) shall be printed next to the candidate's name on the statement of canvass.

**Section 22. PRESERVATION OF BALLOTS AND RECORDS OF VOTING MACHINES.** The voting machine shall remain locked against voting for a period of fifteen days and then shall have the seal broken only on the order of the Judge of Probate having jurisdiction in that county, and if, in the opinion of such Judge of Probate, a contest is likely to develop, shall remain locked for such time as the Judge of Probate may direct. Except, that on the order of any court of competent jurisdiction or on the order of any legislative body or governing body having jurisdiction over such election, the seal may be broken for the purpose of proper investigation and when such investigation is completed the machine shall again be sealed and across the envelope containing the keys shall be written the signature of the person or persons having broken same. Irregular ballots shall be preserved in the same manner and for the same length of time as now provided by law for other ballots.

**Section 23. CUSTODY OF VOTING MACHINES AND THE KEYS THEREOF.** The County Commissioners or Board of Revenue of a county in which voting machines are used shall have general custody and care and repair of such machines, but the Judge of Probate is charged with the care and custody of the keys and seals for the same. The same authority that caused the delivery of the voting machines shall be charged with the transporting such machines back into the custody of the County Commissioners or Board of Revenue, and shall furnish all necessary protection to see that such machines are not molested nor injured from the time such machines leave the place where they are regularly stored until they are turned into the custody of the officials of a voting district and from the time that custody ceases on the part of the voting district officials and the machines are returned to the place of regular storage.

**Section 24. PROVISIONS FOR RECANVASS OF VOTES.** The same authority as now charged by law may apply to the Judge of Probate for an order to break the seals of a voting machine for the purpose of recanvassing the vote should same become necessary, whereupon all the other articles in the "act to regulate and control primary election for the nomination by political parties of candidates for public office" and in the "Election Code" shall be followed in making such recanvass and the machine shall be re-sealed as herein provided.

**Section 25. APPLICATION OF OTHER LAWS.** The provisions of all other laws relating to the conduct of elections shall, so far as practicable, apply to the conduct of elections where voting machines are used, unless herein otherwise provided.

**Section 26. PARTIAL INVALIDITY; LEGISLATIVE INTENT.** Every section of this act and every part of each section

is hereby declared to be independent sections and parts of any section, and the holding of any section or part thereof to be void, ineffective or unconstitutional for any cause shall not affect the other sections or parts thereof.

Section 27. REPEALER. All acts or parts of acts, in conflict with the provisions of this act, are hereby repealed, so far as the conduct of elections in political subdivisions adopted voting machines is concerned.

Approved September 2, 1935.

No. 283)

(H. 433—Sparks (Barbour)

### AN ACT

To repeal Section 3237 and to amend Section 6105 of the Code of Alabama of 1923 by adding thereto the provision that the trial court shall retain jurisdiction of the cause to hear and determine motion for a new trial and to provide that any appeal shall raise the question of the correctness of the court's ruling on the motion for a new trial.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 6105 of the Code of Alabama of 1923, be and the same is hereby amended so as to read as follows: "6105. APPEALS IN CRIMINAL CASES. — Appeals in criminal cases must be taken at the time of sentence or confession of judgment, or within six months thereafter in manner following: (a) An entry of record that defendant appeals from the judgment with or without suspension of judgment, as he may elect, to be taken at the time of judgment rendered, or: (b) The filing of a written statement signed by the defendant or his attorney that defendant appeals from the judgment; the statement to be filed within six months; provided, however, that the trial Court shall retain jurisdiction of the cause for the purpose of hearing and determining a motion for a new trial, seasonably made, and any appeal from a judgment of conviction shall also raise the question of the correctness of the Court's ruling on a motion for a new trial made within the time allowed, and in the manner prescribed by law."

Section 2. That Section 3237 of the Code of Alabama of 1923 be and the same is hereby repealed.

Approved September 2, 1935.

## AN ACT

To create and establish in each County of the State of Alabama which has a population of 200,000 or more people, according to the last Federal Census, or which may hereafter have a population of 200,000 or more people, according to any subsequent Federal Census, a County wide Civil Service System, affecting certain personnel whose compensation is now or may hereafter be payable in whole or part from the public funds of such counties or municipalities located therein; to create a Citizen Supervisory Commission and to create a Personnel Board and other agencies for the supervision and administration of said System in each of such Counties; to define the scope and extent of said System and the powers, duties and authority of said Commission, Board and other agencies; to regulate and define the manner, form and extent of the control, supervision and authority of such agencies over such Personnel and over such counties and municipalities therein; to provide for payment of the expenses of each such agency and for a division of such expense between the county affected and the municipalities therein; to provide penalties for the violation of this Act and of rules and regulations adopted pursuant thereto; and to repeal all laws and parts of laws inconsistent with the provisions hereof.

*Be it enacted by the Legislature of Alabama:—*

Section 1. DEFINITIONS. In this Act words used in the masculine gender include the feminine and neuter genders and words used in the neuter gender include the masculine and feminine genders. The following words, terms and phrases, wherever used in this Act, shall have the meanings respectively ascribed to them in this Section unless the context plainly indicates a contrary meaning: "Commission", The Citizens Supervisory Commission. "Board" or "The Board", The Personnel Board created hereby. "Municipality" or "Such Municipality" or "City", A village, town or city duly incorporated and not excepted, excluded or excused from the operation of this Act and within a County subject to this Act. "County," "The County," "Said County" or "such County." A County within the population class prescribed by this Act. "Appointing Authority," or "Appointing Power." Person, officer, board, council, commission or other body whose lawful jurisdiction or powers are confined wholly or primarily within the territorial limits of such county and who or which possesses final power to appoint persons to services, jobs, offices or positions, the compensation of which is paid in whole or in part from the public funds of such county or from the public funds of a municipality in such county subject to this Act. "Employee" or "Appointee." Persons in the classified service herein set up and appointed by an Appointing Authority, unless herein specifically excepted.

Section 2. PERSONNEL BOARD CREATED AND THE EXTENT OF ITS AUTHORITY DEFINED. There is hereby created and established, in and for each separate county of the State of Alabama which has a population of two hundred thousand



or more people according to the last Federal Census and also for each county of the State of Alabama which shall hereafter come into such population class according to any subsequent Federal Census, a Personnel Board for the government and control by Civil Service rules and regulations and practices hereinafter set out or authorized of all employees and appointees of such counties and the municipalities therein and of each and every appointing authority therein and such Board is now given and vested with such power, authority and jurisdiction. Provided, however, that such Board shall not govern or control the employees or appointees of a city or county Board of Education, nor of a city and/or County Board of Health nor of a city and/or county Library Board, except in so far and to such extent only as such Board of Education, Board of Health or Library Board may by resolution duly filed with the Personnel Board, request, and the Personnel Board, by like resolution, consent to govern and control. Provided, however, that any municipality in such county with a population according to the then last Federal Census of less than twelve Thousand five hundred people may, by resolution of its governing body duly filed with the Personnel Board, request that it be excepted and excluded from the provisions of this Act, and the Personnel Board, shall thereafter cease to administer this Act to the employees of such municipality until such time as the Governing body of such municipality may rescind such resolution or until such municipality shall, according to a subsequent Federal Census become a municipality with a population of more than twelve thousand five hundred people. Provided further, that this Act shall in no event be construed to apply to a person engaged in the profession of teaching or in supervising teaching in the public schools nor to officials elected by vote of the people nor to the Judge of any Court, nor to the County Attorney, nor the Chief of the Fire Department or the Chief of Police of any city nor to the Chief Deputy Sheriff of any county nor to the Personnel Director nor to common laborers engaged exclusively in unskilled labor. It is provided further, that where there are two County sites or County Court House sites maintained in one county and a county officer or officers are required to maintain an office in one Court House and a branch or subsidiary office in the other of said Court Houses, the Chief Deputies of all elective officers in charge of such branch office shall be exempt from the provisions of this Act. It is hereby provided that in the event a Chief of Police, Chief of Fire Department of any city that may come under this Act or Chief Deputy Sheriff of any county that may come under this Act, who is in office when this Act goes into effect or who shall later be promoted from lower grades or classifications, in the Police, Fire, or Sheriff's Department of such city or county, to one of such offices, and shall thereafter be removed, for any cause except a cause involving moral turpitude, from such office, such re-

moved officer shall have the option to return to the grade, classification or position in such department which he occupied before being appointed to such office of Chief of Police, Chief of Fire Department, or Chief Deputy Sheriff.

Section 3. MEMBERSHIP OF PERSONNEL BOARD. Said Personnel Board shall consist of three members designated respectively as Member Number One, Member Number Two and Member Number Three, each of whom shall be over 21 years of age, of recognized character and ability, a bona fide resident and qualified voter of such county and shall not, when appointed, nor for the three years then last past before the date of his appointment have held public office or political party office, nor have been a candidate for such and who shall not directly or indirectly have solicited membership on such Board, provided that in any county which is or may hereafter be divided by law into two divisions for the trial of cases in the Circuit Court of such county, not more than two members of the Board shall be residents of the same division. The Board shall meet once a month on dates to be fixed by its rules and regulations and as much oftener as shall be necessary for the orderly dispatch of its business. The members of the Board shall be selected for the following terms and in the following manner: Members Number One, Two and Three shall be appointed within thirty days after this Act shall become a law in all counties now subject thereto by the Citizens Supervisory Commission of such County, which Commission shall likewise appoint their successors. In all counties hereafter becoming subject to the provisions of this Act said Board shall be appointed as soon as it is determined that such County is in the population class subject to this Act. Member Number One who shall be the Chairman of the Board shall hold office for a term of two years beginning on the date this Act becomes effective in such County and until his successor is appointed and has qualified. His successors shall hold office for terms of six years each beginning at the ends of the legal terms as distinguished from the possible holdover terms of their respective predecessors. Member Number Two shall hold office for a term of four years beginning on the date this Act becomes effective in such County and until his successor is appointed and has qualified. His successors shall hold office for terms of six years each beginning at the ends of the legal terms, as distinguished from the possible holdover terms, of their respective predecessors. Member Number Three shall hold office for a term of six years beginning on the date this Act becomes effective in such County and until his successor has been appointed and has qualified. His successors shall hold office for terms of six years each beginning at the ends of the legal terms, as distinguished from the possible holdover terms, of their respective predecessors. In the event of a vacancy on the Board occasioned by death, resignation, impeach-

ment or other cause, such vacancy shall be filled by the Citizens Supervisory Commission for the then unexpired term. Each Member shall receive ten dollars for each meeting of the Board attended by him provided no Member shall receive more than forty dollars compensation during any one month. This compensation shall be paid as salaries of County Employees are paid on the warrant of the Member claiming such compensation.

Section 4. CITIZENS SUPERVISORY COMMISSION. There is hereby created and vested with the powers hereinafter set out a Citizens Supervisory Commission of not less than five persons for each County subject to this Act which shall consist of the persons, who now are and who from time to time shall be (1) The Judge or Judges of the District Court or District Courts of the United States, for the District or Districts having exclusive or concurrent territorial jurisdiction of such county or the largest part thereof, provided he or they be residents of such county. (2) The Presidents or other chief executive officers, by whatever name called, of the two institutions of higher learning, if there be any, in such county, having the greatest number of bona fide resident students. (3) The President or other Chief Executive Officer of the Association, Group or Society, if there be one, in such County, comprising within its membership at least fifty-five per cent of the licensed, practicing physicians resident in such county and provided that not less than ninety per cent of the membership of such Association, Group or Society shall consist of licensed physicians and provided that any reputable citizen of such county who shall be licensed by the State of Alabama to practice medicine and who shall have paid his state and county license fee to practice, shall under the rules of such Association, Group, or Society, be eligible to membership therein. (4) The President or other Chief Executive Officer of the trades council, Group, Society or Association, if there be one in such county or in any city in such county subject to this Act, with which is affiliated more than one-half of the unions or other organizations of the workers in the organized trades and crafts in such county or city, provided that no union or other labor organization shall be counted for the purposes of this Act as affiliated with more than one such Trades Council, Group, Society or Association in such county or city, and provided that no council, group, society, or association shall be recognized unless it was in existence and properly functioning six months prior to the time this Act becomes effective in such county and provided that if there be no Council, Group, Society or Association in such county or city, with which is affiliated more than one-half of the unions or other organizations of the workers in the organized trades and crafts in such county or city, then the Council, Group, Society or Association having the largest affiliation of such unions or organizations shall be here designated. It is

contemplated that one Member be seated for any county-wide Council, Group, Society, or Association or one for each such city organization if there be no county-wide organization of the character described. (5) If there be in such county as many as three or more trades, crafts, groups or divisions of workers who are organized into what are commonly known as labor unions or organizations whose organizations are not affiliated with the trades Council, Group, Society or Association described in the subparagraph (4) immediately preceding this subparagraph, then such organized crafts, groups or divisions of workers may in any manner agreeable to the majority of the presidents or other chief executive officers of the locals of such nonaffiliated labor organizations located in such county select one of such presidents as a member of the Citizens Supervisory Commission who shall remain a member of such Commission as long as his electors shall designate. This sub-paragraph shall be applicable solely to the County as a whole and not as to the separate cities therein. (6) The President or other Chief Executive officer of the Chamber of Commerce or other most nearly similar organization of each city subject to this act in such county, provided, that by "Chamber of Commerce" is meant an organization in existence six months prior to the time this Act becomes effective in such county, to membership in which any reputable man engaged in mercantile, manufacturing, banking, jobbing or similar businesses is eligible, and which, most nearly of all organizations in such city, regardless of name, performs the functions of such organizations as are commonly known as Chambers of Commerce. (7) The President or other Chief Executive officer of the Junior Chamber of Commerce or other most nearly similar organization of each city subject to this Act in such county, provided that by Junior Chamber of Commerce is meant an organization substantially similar to Chambers of Commerce as defined hereinbefore, except that membership therein may be restricted by an age qualification, and provided that such organization must have been in existence for six months in such city when this Act became effective therein, and if there be no organization in such city substantially like a Junior Chamber of Commerce, representation for such city under this classification shall fail. (8) The President, Chairman or other chief executive officer of any County-wide Council, Group, Society or Association of Camps of United Confederate Veterans. By a Camp of United Confederate Veterans is meant a local organization with its meeting place in such County of persons who are residents of Alabama and who actually served as soldiers or sailors in the army or navy of the Confederate States of America or State of Alabama for or during the period of War between the States. If at any time there be no such County-wide organization of such Camps, then the President, Chairman, Commander or other chief executive officer of

the Camp in the County which as of the first day of January of each year has the largest bona fide membership. (9) The President, Chairman or other chief executive officer of any County-wide Council, Group, Society or Association of Camps of United Spanish American War Veterans. By a Camp of United Spanish American War Veterans is meant a local organization with its meeting place in such county of persons who are residents of Alabama and who actually served as soldiers, sailors or marines in the armed services of the United States of America for or during the period of war between the United States and Spain. If at any time there be no such County-wide organization of such camps, then the President, Chairman, Commander or other chief executive officer of the Camp in the county which as of the first day of January of each year has the largest bona fide membership. (10) The President, Chairman, or other chief executive officer of any County-wide Council, Group, Society or Association of Posts of the American Legion. By Post of the American Legion is meant a local organization with its meeting place in such county of persons who are residents of Alabama and who actually served as soldiers, sailors or marines in the armed services of the United States of America for or during the period of the World War. If at any time there be no such County-wide organization of such Posts, then the President, Chairman, Commander or other chief executive officer of the Post in the County which as of the first day of January of each year has the largest bona fide membership. (11) The President or other chief executive officer by whatever name called, of each city-wide Parent-Teachers Association in each city subject to this Act and which city is not excused or excluded herefrom by act of its governing body as herein provided. (12) The Probate Judge of such county. In the event one or more of the foregoing persons fail or refuse to serve, such fact shall not invalidate the acts of the Commission, provided as many as five members of the Commission serve. The Citizens Supervisory Commission shall meet and organize in each county to which this Act is applicable when passed in the main court house of such county, at twelve o'clock noon on the second Tuesday after this Act shall have been signed by the Governor or become a law by other process, and in all counties subsequently coming into the population class to which this Act is applicable, on the second Tuesday after official publication of the Federal Census establishing such population at like hour and place. The Probate Judge shall be both temporary and permanent Chairman of said Commission and shall have a vote only in case of a tie. He shall also examine and pass upon the credentials and right of each person presenting himself for membership on said Commission to sit thereon both at the organizational meeting and at all subsequent meetings. At the organizational meeting all persons ruled eligible by him to sit on said Commission shall be

seated as such and shall vote on all questions arising at such meeting. At any time after the organizational meeting has adjourned, any citizen of such county may file with the Chairman of the Commission written objection to the right of any person to sit on said Commission. Such objection shall be based on the sole ground that that such person is not one of those designated by this Act for membership on such Commission. The Chairman shall rule upon said objection in writing and the first order of business at the next meeting of the Commission shall be a report by the Chairman of the objection and his ruling thereon. If no member of the Commission other than the person affected by such ruling appeals from the ruling of the Chairman, his ruling shall be final; if any appeal is made from the ruling of the Chairman, all persons then seated, except the member affected, shall be entitled to vote on said appeal. In all matters a majority vote of the Commission present, if a quorum be present, shall govern. The Commission shall, except as herein otherwise provided, be the judge of the qualifications of its own membership. The Commission shall adopt, from time to time, such rules, regulations and modes of procedure as it deems expedient to enable it to dispatch in an orderly manner its business. The Chairman may call upon the Sheriff of the county or any deputy sheriff thereof, to attend the meetings of the Commission and preserve order and execute the decisions, rulings, and orders of the Commission and of the Chairman thereof. The Chairman may punish for contempt of the Commission in like manner and extent as may be done by the Circuit Courts of this State. The Chairman of the Commission shall be the keeper and custodian of the minutes, records, property and paraphernalia of the Commission, and may call upon the Director of Personnel to furnish him such clerical assistants, supplies and place of safe deposit for such records and property as he deems necessary. These expenses and the cost of giving notice of meetings shall be paid as other expenses of the personnel system are paid. The Probate Judge shall discharge his duties hereunder, under the sanction of his oath as Judge of Probate and he shall administer the oath of office to the other members of such Commission prescribed by Section 279 of the Constitution of this State. The Chairman or the Director of Personnel under his supervision shall establish and keep in the office of the Director of Personnel a roster of the membership of the Commission by place, office or position, and keep as nearly as possible up to date the changes in the persons occupying such places, offices or positions and it shall be the duty of each person vacating a place, office or position which entitled him to a seat on such Commission to notify the Chairman of the name and address of the person who in his opinion, is, under the law, his successor on such Commission. In addition to the original organizational meeting here prescribed, the Commission shall meet once each

year to receive the annual report of the Personnel Board and to make such recommendations to the Board as it shall see in the interest of the sound administration of this Act in such county and to elect a successor to any Member of the Personnel Board whose term will expire before the next annual meeting of the Commission. Such annual meeting shall be held at noon on the Tuesday of each year which is nearest to a date 30 days prior to the anniversary of the enactment of this Act. Where two Tuesdays are equi-distant, therefrom, then on the first of such Tuesdays. The Chairman of the Commission or any five members thereof may call a meeting of the Commission at the court house at the County site of the County, at noon on any Tuesday they deem it in the public interest for it to meet. Such notice shall be signed by the person or persons calling such meeting and shall state briefly the purposes of the meeting; shall be mailed to each person registered as a member of the Commission or known to be such and published once each day for three consecutive days immediately preceding such meeting in some daily newspaper published in such County; if no such paper is published in the County, then by posting in a public place in the main and each branch Court House in the County and in the City Hall of each City in the County subject to this Act, more than five days before such proposed meeting. Notice of the annual meeting shall be given in like manner, but failure of any member to receive notice by mail of any such meeting, either annual or special, shall not invalidate it. Failure to call an annual meeting shall not invalidate it. A majority of the persons serving as members of the Commission shall constitute a quorum to do business but a less number may adjourn from time to time and compel the attendance of absent members in such manner and under such penalties as may be prescribed by the rules and regulations of the Commission.

**Section 5. ALTERNATE METHOD OF SELECTION OF BOARD.** In the event the Citizens Supervisory Commission shall fail for any reason whatsoever to elect the Personnel Board or to fill any vacancy thereon, then and in that event within thirty days thereafter such Board shall be elected or vacancy filled by the delegation consisting of the members of the House of Representatives and Senate representing such County or the district in which it lies in the Legislature of Alabama. Such action shall be taken at a public meeting which shall be called by a majority of such delegation and held at the Court House at the county site of such county. Each member of such delegation shall be given three days' written notice of the purpose, time and place of holding such meeting by the members calling it. At such meeting a majority of the members of such delegation shall constitute a quorum for the transaction of any business coming before the meeting, except that the affirmative vote of at least one-half of the members of

such delegation shall be necessary to elect a member of such Personnel Board. Thereafter the vacancies occurring on said Personnel Board shall be filled in the same manner herein prescribed as they occur and the duties herein elsewhere laid upon the said Citizens Supervisory Commission are hereby imposed upon the member or members of the Legislature and Senator to be performed as herein prescribed.

Section 6. CREATION OF OFFICE OF DIRECTOR OF PERSONNEL. The office of Director of Personnel is hereby created for each county affected by this Act. The Board shall elect and fix the salary of the Director who shall hold office at the will of the Board. After the second year during which a County shall be subject to this Act the Director shall be a bona fide resident of such County and a voter thereof and his salary shall not exceed \$4,200.00 per year. The Director's salary shall be payable monthly upon the warrant of the Board signed by two members thereof, drawn upon the treasury or depository of the county and shall be paid out of the general funds of the county. The Director of Personnel shall act as Secretary at Board meetings, and shall be the Board's executive officer, but shall not have a vote in determining the Board's policy. He shall perform such duties as are assigned to him by the Board. He shall not be eligible to appointment or election to any public office in any County or City whose personnel he shall have assisted in administering within three years after the date he shall have ceased to be such Personnel Director.

Section 7. DUTIES OF PERSONNEL DIRECTOR. The Director of Personnel, subject to the provisions of this Act and approval of the Personnel Board, shall: (1) Subject to the approval of the Board appoint or remove such subordinates as may be necessary to administer a scientific and economical personnel system and fix their compensation. If at any time the Citizens Supervisory Commission recommends that the number of such subordinates or their compensation be reduced, such recommendation shall be immediately put into effect. (2) Prepare and submit to the Board for its consideration and approval such forms, rules and regulations as are necessary to carry out the provisions of this act, including rules governing examinations, appointments, suspensions and/or dismissals, certification of eligibles, reduction in force, sick leave, leave of absence, resignation, reinstatements, promotions, demotions, transfers, salary adjustments, and any and all other rules and regulations necessary for administering a scientific and economical personnel or Civil Service system. Such rules and regulations must be approved by a two-thirds majority of the Personnel Board before becoming effective after which they shall have the force and effect of law unless they are contrary to the provisions of this Act. (3) Classify or direct the classification of



all positions to be held under either municipal or county authority in accordance with the provisions of this Act and in accordance with the duties attached to such positions. (4) Grade and classify all positions in the County and in each City in the county and for each appointing authority with respect to salary to the end that each employee shall receive the same compensation as all other employees of the county or city from which he receives his compensation receive for the same grade and class of service. (5) Establish with the written approval of the Board, minimum and maximum salary limits for each grade and classification of positions, provided that the governing body of each county and municipality affected hereby must, before it becomes effective, approve the salary schedule effective as to each classification and grade of employment paid, in whole or in part, out of the funds of such county or municipality, and may from time to time, raise or lower such compensation schedules as apply to such county or municipality to such extent as its financial condition and other circumstances may warrant. Nothing herein contained however shall enable a county or municipality to so change or modify a salary as to make the change effective with respect to less than all employees in a given grade or class or so as to affect differently employees in the same grade and classification. If the governing body or an appointing authority fails for thirty days either to raise or lower a salary schedule submitted to it in writing by the personnel director with the approval of the Board, its failure to act shall be taken as, and have the effect of approval. (6) Provide, by proper rules, regulations and orders, subject to approval by the Board, for the advancement of salary within each grade on the basis of efficiency and length of service. Such salary schedules, classes and grades may from time to time be amended, added to, consolidated or abolished. Any appointing power authorized by law to fix the compensation of an employee or appointee, subject to the provisions of this Act, must so fix said compensation in accordance with the classification and salary schedule herein provided and the question of whether or not the employee has been referred to the proper grade and classification shall be a matter subject to the decision of the Board. (7) When the classification is completed and the compensation schedule for each appointing authority determined by the Personnel Board and approved by the County or Municipality affected all employees receiving a salary in excess of the maximum for the class and grade in which they are employed shall be reduced by the appointing authority to or below the maximum: those receiving a salary less than the minimum for the class and grade in which they are employed shall be increased to or above the minimum, provided there are sufficient funds available.

Section 8. EXAMINATIONS. The Director of Personnel shall prepare or cause to be prepared and administered, examina-

tions to determine the merit, efficiency and fitness of applicants for positions, shall determine the relative weight which shall be allowed for a written examination, for oral examinations, for training and experience and shall prepare properly classified eligible lists from the applicants so examined. Said examinations shall be thorough and practical. The examinations shall relate to those matters which fairly test the relative capacity and fitness of the person examined to discharge the duties of the position he seeks. In the case of laborers not engaged exclusively in unskilled labor and subject to this Act, the Director of Personnel may rate the applicants solely on experience, physical qualifications and diligence which may be determined by such evidence and in such manner as is directed by the Personnel Board. Such applicant may be required to take such further tests as the Director of Personnel with the approval of the Personnel Board, deems necessary. The Director of Personnel shall prepare a list of minimum requirements which the applicants must possess before they are eligible to participate in any specific examination. The Director of Personnel shall require an applicant to file in the Personnel Office, in accordance with the rules and regulations, a formal application before he is admitted to any examinations. Blank forms for such applications will be furnished by the Director of Personnel upon the payment of one dollar and fifty cents examination fee, which fee shall be paid into the county treasury. The Director of Personnel may require in connection with applications, such evidence of residence, citizenship and right to vote and certificates of physicians, public officers, former employers or associates or others having knowledge of the applicant as the good of the service may require. The Director of Personnel may refuse to examine, or after examination refuse to certify as eligible anyone who is found to lack any of the established minimum requirements for the examination or position for which he applies or who is physically so disabled as to be rendered unfit to perform the duties of the position to which he seeks appointment or who has been guilty of crime involving moral turpitude, or infamous or disgraceful conduct or who has been dismissed from the public service for delinquency or misconduct or who has intentionally made a false statement of any material fact or practiced or attempted to practice any deception or fraud in his application, in his examination or in securing his eligibility. Any person appointed to a position under the provision of this Act who has secured his place on the eligible list through fraud shall be removed by the appointing officer and shall not thereafter be eligible for examination for any position under the provisions of this Act except by unanimous permission of the Personnel Board. When the position to be filled involves fiduciary or financial responsibility or law enforcement, the appointing power or the Personnel Board may require the applicant to furnish a rea-

sonable bond or other security in an amount and form to be fixed by the appointing authority subject to the approval of the Board provided that where the amount and terms of such bonds are now prescribed by law, such provision of law shall remain in effect. Said bond or security shall be approved by the appointing power and kept by it and conditioned as it prescribes unless otherwise now provided by law.

**Section 9. FRAUDS CONCERNING EXAMINATION PROHIBITED.** No person shall wilfully or corruptly make a false mark, grade, estimate or report on an examination or with respect to the proper standing of any person examined under this chapter or wilfully or corruptly make any false representation concerning the same or concerning any person examined or furnish to anyone special or secret information for the purpose of improving or injuring the prospects or chances of the appointment, employment or promotion of any person so examined or to be examined. Any person guilty of any of the above acts shall be deemed guilty of a misdemeanor.

**Section 10. ENFORCEMENT.** The Director of Personnel shall, in accordance with the policy of the Personnel Board, enforce the provisions of this act and the rules and regulations prescribed by the Personnel Board. Any Act of the Director complained of shall be subject to review by the Board upon the written request to the Board of any person at interest.

**Section 11. MINUTES.** The Director of Personnel shall keep the minutes of the official actions of the Personnel Board.

**Section 12. EFFICIENCY RECORDS.** The Director of Personnel shall obtain, rate and preserve the records of individual efficiency of all persons holding positions under the provisions of this Act. Such ratings will be submitted on forms prescribed by the Director of Personnel and will be made by the Department heads or their supervising officers, or both in accordance with regulations prescribed by the Personnel Board. Such efficiency ratings shall constitute grounds for: (a) Increase in the rate of compensation for employees who have not attained the maximum rate for the class to which their positions are allotted; (b) Continuance at the existing rate of compensation without increase or decrease; (c) Decrease in the rate of compensation for the employees who are receiving more than the minimum rate for the class to which their positions are allocated; (d) Promotion, demotion, lay-off, transfer or dismissal.

**Section 13. INVESTIGATIONS:** The Director of Personnel shall make investigations and report to the Personnel Board upon all matters touching the enforcement and the effect of the provisions of this act and the rules and regulations prescribed thereunder. He may inspect all places of employment and services affected by this act in order to ascertain and advise with the heads of the various

departments concerning their methods of handling those matters affecting employees in the service, such as hours of work, attendance, training, working conditions, morale, and in order to ascertain whether the provisions of this Act and all such rules and regulations promulgated thereunder are obeyed. The Director of Personnel in the course of such investigations, shall have the power to administer oaths, subpoena and require the attendance of witnesses, and the production of books, papers, documents and accounts pertaining to the subject under investigation. All hearings and investigations made by the Director of Personnel shall be governed by this Act and by rules of practice and procedure adopted by the Personnel Board, and in conducting such investigations he shall not be bound by the technical rules of evidence. No informality in any proceeding or in the manner of taking testimony by the Director of Personnel shall invalidate any order, decision, rule or regulation made by him, and approved or confirmed by the Personnel Board.

**Section 14. SURVEY OF NECESSITY FOR PERSONNEL.** The Director of Personnel shall have authority to investigate concerning the number of employees in any department or office and if in his judgment, after conference with the Department head, there are an excessive number of employees in proportion to the amount of work required in such department or office, he shall recommend to the Personnel Board that the excess number of employees be laid off or transferred either permanently or temporarily in accordance with the provisions of this Act and the appointing authority shall put into effect the order of the Personnel Board in such respect. He shall also study the organization and procedure of the different departments and suggest to the heads of the departments such changes in procedure as may increase efficiency or enable the organization to carry on its work more economically and with a reduced staff.

**Section 15. OFFICIAL ROSTER.** The Director of Personnel shall keep in the Personnel Office an official roster of all persons holding positions under the provisions of this Act and shall enter thereon the name of each person who has been appointed to, promoted, reduced, transferred, reinstated, or removed from or left any position and require such evidence as may be deemed satisfactory as to whether such persons was appointed to, promoted, reduced, transferred, reinstated or removed from such position in accordance with the provisions of this Act and the rules and regulations of the Personnel Board thereunder, and as to when and why and how such action was taken. The official roster shall show opposite or in connection with each name the date of appointment, promotion, reduction, transfer, or reinstatement, rate of compensation of the position, the date of commencement of service and

change in or separation from position, and when and why and how such change or separation occurred.

**Section 16. STATUS OF PRESENT EMPLOYEES.** The names of all employees or appointees holding positions, at the time of the taking effect of this Act which if vacant, would be filled under the provisions of this Act, and who have held such positions for a period of twenty-four months prior to the date of this Act becomes effective shall be entered in said Roster and shall be deemed appointed under the provisions of this Act and to have acquired permanent civil service status in the grade and classification held at the time this Act becomes effective in such county. All employees or appointees holding such positions who have served in such positions a less period than two years and more than twelve months shall be deemed to have been appointed under the provisions of this Act and to be serving their probationary period. After such employees or appointees have served satisfactorily in such position for a period of two years, they will be considered to have attained permanent civil service status. All employees or appointees who have served satisfactorily in such positions for less than twelve months shall be deemed temporary appointees and will be required to take and pass appropriate examinations or be replaced by other applicants who have taken and passed such examinations. Whenever the appointment or employment of new or additional officers or employees of such counties, municipalities or appointing authorities, therein, is hereafter authorized by law, such officers or employees shall be subject to the provisions hereof and included within the county and municipal civil service unless of a class excepted herein.

**Section 17. DUTIES OF COUNTY AND MUNICIPAL OFFICIALS.** It shall be the duty of all elective officials in authority of either the counties or municipalities affected by this Act to aid in all proper ways in carrying into effect the provisions of this Act and the rules and regulations prescribed from time to time thereunder, and especially at the request of the Director of Personnel to allow him the use of public buildings and heat and lights for the purpose of conducting examinations of applicants and investigations as provided by this Act.

**Section 18. LEGAL SERVICES FOR BOARD.** If this Act or its enforcement by the Personnel Board shall be called into question in any judicial proceeding, or if any person, county or municipality shall fail or refuse to comply with the lawful orders or directions of the Personnel Board, such Board may call upon the county or city attorney of any county or city subject to its control or may employ independent counsel to represent it in sustaining this Act and its enforcement thereof and the compensation of such independent counsel shall be paid as other employees of the Board are paid.

### Section 19. METHOD OF MAKING APPOINTMENTS.

The appointing power shall make appointments to all positions that are not filled by a promotion, reinstatement, transfer or demotion in accordance with the provisions of this Act and the rules and regulations in pursuance thereof. The appointing power shall notify the Director of Personnel on forms prescribed by him of any vacancy to be filled, giving an itemized statement of the duties to be performed and a definite statement as to the need for the position. The Director of Personnel with the approval of the Personnel Board will determine the need for the position and will classify the position in accordance with its duties and responsibilities. In case there is either a department or general layoff list, the Director of Personnel will certify from such list in the same manner as certification is made from the general eligible list. The Director of Personnel will if the Board determines there is a need for the position then certify to the appointing power the names and addresses of the three persons standing highest on the eligible list for the class or grade to which the position belongs but in case there are less than three on such eligible list, he shall certify the whole number of persons thereon and the appointing power shall fill the position by the appointment of one of the persons so certified. Provided that where residence qualifications are prescribed by the appointing power, only those having such residence qualification, or if more than three have same, then the three highest having such qualifications shall be certified. The term of eligibility shall be fixed for each eligible list at not less than one year. Appointments shall be made from the eligible list more nearly appropriate for the position to be filled and a new list shall be created for a stated position or a group of positions only when there is no appropriate list existing from which appointments may be made. It shall be the duty of the appointing power to report to the Director of Personnel immediately on forms prescribed by him, the name of the person appointed and the date that such appointment is to become effective and any other information required. No person shall be appointed under any title not appropriate to the duties of the position to which he is appointed except by the consent of the Director of Personnel. All appointments shall be made for a probationary period of twelve months. Unless such appointee shall have been dismissed within such probationary period by the appointing power for reasons stated in writing and filed with the Director of Personnel, which action shall not be reviewable, his appointment shall become permanent subject to the provisions of this Act as to removals, suspensions, and changes. When the appointing officer selects one of the three eligibles certified, the names of the two remaining eligibles shall be returned to the eligible list for certification to the next vacancy which may occur. The name of

an applicant may be removed from the eligible list after it has been certified and refused three times.

Section 20. **LOCAL CITIZENS APPOINTED.** The appointing authority in all cases not excepted or exempted under the provisions of this Act or the Constitution of the State, shall fill positions in the county or municipalities herein, by appointment, including cases of transfer, reinstatement, promotions and demotions, in strict accordance with the provisions of this Act and the rules and regulations prescribed from time to time hereunder and not otherwise. Provided, that the appointing authority must require that a vacancy be filled from among citizens of the territory to be served by such appointee or employee.

Section 21. **VACATIONS.** All employees of either the county or municipality affected by this Act shall be allowed two weeks vacation with pay for each complete year of service. The time for such vacation shall be determined by the appointing officer except that the employee, if a vacation has not been allowed him during his year of service, may demand that he be given the last two weeks of his service year. No vacations shall be cumulative.

Section 22. **SICK LEAVE.** The Director of Personnel will submit to the Personnel Board rules and regulations governing the administration and the amount of sick leave with pay which may be allowed each permanent employee in either a municipality or county affected by this Act.

Section 23. **TEMPORARY APPOINTMENTS.** When there is no eligible list from which a position may be filled the appointing power may, with the consent of the Director of Personnel, fill such position by temporary appointment and such temporary appointment shall not continue for a longer period than three months nor shall successive temporary appointments be made to the same position under this section without the previous consent of the Personnel Board and in no case shall any person hold a position under successive temporary appointment for a longer period than six months.

Section 24. **PROMOTIONS.** Within the discretion of the Director of Personnel, vacancies in positions shall be filled, in so far as practicable by promotion from among employees holding positions in the next lower grade. Promotions shall be based upon merit and competition and upon the superior qualifications of the person promoted as shown by his records of efficiency.

Section 25. **REINSTATEMENTS AND TRANSFERS.** The Director of Personnel may authorize the transfer of any person legally holding a position to a similar position in the same class or grade under the same appointing authority, or to a similar position in the same class or grade under a different appointing authority provided that in such new place such person will be paid by the same county or city as before the transfer and with the approval of the Personnel Board, may provide for the reinstatement.

ment within two years of persons separated from positions without fault or delinquency on their part if within that time there is need for their services. A resigned employee cannot demand reinstatement, but this may be granted him at the request of the appointing authority, with the approval of the Personnel Board. No promotion, transfer, or reinstatement shall be made from a position in one class to a position in another class nor shall a person be transferred to or reinstated in a position for original entrance to which there is required by this Act or the rules and regulations thereunder, an examination involving essential tests or qualifications different from or higher than those required for original entrance to the position held by such person except that such person takes and successfully passes such examinations as are prescribed by the Director of Personnel and approved by the Personnel Board.

Section 26. SALARY ADJUSTMENTS. All adjustments either upward or downward of salaries for employees or appointees of either the municipalities or the counties or the appointing authorities affected by this Act shall be made only at the request of the head of the department, with the recommendations, favorable or unfavorable, of the Director of Personnel, and with the final approval of the governing body of the county or municipality affected. Such adjustments shall be based on efficiency and length of service.

Section 27. TENURE OF OFFICE. The tenure of every person holding office under the provisions of this Act shall be during good behavior, and the rendering of efficient service, but any such person may, provided sufficient cause is shown, be removed, demoted, suspended without pay or with reduced pay transferred to another position in the same class, reprimanded, or if suspended, restored to his position with such pay as may be equitable under a procedure in conformity with the provisions of this Act which shall be set up by the Personnel Board in its rules and regulations. Sufficient cause as used in this section shall mean any cause which is detrimental to the public service other than political, racial or religious. The appointing power or other officer or person in charge of the employee, or any person or citizen of the county or municipalities affected by this act or member of the Board, may file charges against any person employed under the provisions of this Act, for dismissal or other corrective action. Such charges must be made in writing and clearly state the specific act or acts of the employee constituting such cause, the original of which shall be immediately filed with the Board and a copy served upon the accused employee either by personal service or by registered mail. The charges filed against an employee must also inform him of the time and manner in which, under the provisions of this section and the rules and regulations of the Board,



he must answer to such charges and ask for a hearing or investigation. The employee shall have ten days in which to file with the Board a written answer to or explanation of the charges, and to request an investigation or hearing, and a copy of such answer, explanation or request shall at once be mailed by the Board to the appointing power or other officer or person who has made the charges. Within ten days after the filing of such answer, and upon written notice to both parties of the time and place of the hearing or investigation, there shall be held a hearing or investigation at which time both the accuser and the accused shall have the right and reasonable opportunity to submit all proper and competent evidence for and against the accused. Failure on the part of the accused employee to request a hearing, or investigation, and to give such written answer or explanation to the Board within ten days of the service upon him of the charge, shall be deemed an admission of the truth of such charges without further investigation or hearing on the part of the Board, unless further time shall be granted by the Board. It shall be the duty of the Board to subpoena witnesses for the accused upon written request and affidavit that the same are necessary and consider carefully the evidence submitted in the hearing or investigation and render a decision which in its judgment is just and proper. The decision must be rendered within five days after the completion of the trial and shall be entered upon the minutes of the Board and the official roster of employees. Copies of the decision shall be furnished to both the appointing power and the employee. The taking of testimony in connection therewith may be held by the Board or any member or any agent of the Board duly accredited to such duty by the Board, and the decision of the Board based upon its records and the testimony taken at such hearing shall be final. An appointing authority may, from time to time, preemptorily suspend an employee without pay or other compensation and without the right of a hearing as punishment for improper behavior, but such suspension or total suspension by such appointing power of such person shall not exceed thirty days in any year of service. Such suspension with loss of pay may be effected only by service upon the employee by the appointing power of written charges setting out clearly the delinquency for which such suspension was made and a copy of which must be at the same time mailed or delivered to the Board. The suspended employee shall have the right to file with the Board and the employing authority a written answer or explanation of such charges.

**Section 28. REDUCTION IN FORCE.** Whenever it is necessary because of lack of work, lack of funds or whenever it is advisable in the interest of economy to reduce the staff of any department or agency of the counties, or any municipality affected by this Act, the appointing authorities shall lay off employees ac-

cording to the procedure set forth in this Act and the rules and regulations prescribed thereunder. The duties performed by the employee or employees so laid off may be assigned to any other permanent civil service employee or employees in the department or office, who, in the opinion of the Director of Personnel, are qualified to perform such duties regardless of the specific classification or grade to which such employees are allocated. Layoffs shall be made in accordance with the seniority and efficiency record of the employee or employees of the grade in which the layoff is to be made by applying the following rule. In determining the rating to be given for seniority, two points shall be allowed for each complete year of service and in determining the rating to be given for efficiency that number of points shall be allowed which expresses the efficiency of the employee in terms of percentage of perfection with one hundred percent considered as perfect. In making layoffs the combined scores of the employee for seniority and efficiency shall be considered and the employee or employees of all the grades under consideration having the lowest combined score or scores up to the number of positions to be abolished or discontinued shall be laid off. The names of employees thus laid off shall be placed upon the department layoff list for such positions as in the opinion of the Director of Personnel the employees are qualified and entitled to hold. The order of the names on layoff lists shall be the relative order of combined scores for seniority and efficiency. All permanent civil service employees compensated on a monthly basis who are to be laid off shall be given fifteen days notice of such layoff prior to the effective date thereof.

Section 29. **CERTIFICATION OF PAYROLLS.** It shall be unlawful for the fiscal officer of either a county or any municipality affected by this act to draw, sign, issue or authorize the drawing, signing, or issuing of any warrant on the treasurer or other disbursing officer of either the municipality or the county for the payment of or for the treasurer or other disbursing officer to pay any salary or compensation to anyone holding any position subject to the provisions of this act unless the estimate, payroll, warrant, or account for such salary or compensation containing the name of the person to be paid shall bear the certification of the Director of Personnel, that the person or persons named in the estimate, payroll, warrant, or account are holding hereunder, subject to the provisions of Section 38 hereof. Any sums paid contrary to the provisions of this Section may be recovered from anyone making such payment in violation of the provisions of this Act and of the legal rules and regulations prescribed thereunder or of any officer signing or countersigning or authorizing the signing or countersigning of any warrant for the payment of the same and from the sureties on his official bond and the proceeds of any action brought under the provisions of this section must,

when collected, be paid into the treasury of either the city or the county from whose funds the payment was originally made.

**Section 30. SOLICITING PROHIBITED.** No officer, agent, clerk, employee or appointee under the government of a County or any municipality therein, or any agency thereof, affected hereby shall directly or indirectly, solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription, contribution, or political service, whether voluntary or involuntary, for any political purpose whatsoever, from any one on the eligible lists or holding any position under the provisions of this Act. No one while holding any public office, or in nomination for, or while seeking a nomination or appointment for any public office, shall use or promise to use, whether directly or indirectly, any official authority or influence (whether then possessed or merely anticipated) in any way of conferring upon any person, or in order to secure or aid any person in securing any position, upon a consideration or condition that the vote or political influence or action of the last named person or any other, shall be given or used in behalf of any candidate, officer, or party, or upon any other corrupt condition or consideration. And no one, being a public officer, or in nomination for, or while seeking nomination or appointment for any public office or having or claiming to have any authority or influence (whether then possessed or merely anticipated) for the securing or holding of or as affecting any position under the provisions of this Act, shall use, or promise or threaten to use, any such authority or influence, directly or indirectly, in order to coerce or persuade the vote or political action of any person on the eligible lists or holding any position under the provisions of this Act. Any person wilfully violating any of the provisions of this Act shall be guilty of a misdemeanor. Nothing herein contained, however, shall prevent any person holding a place hereunder from becoming a candidate for, or for nomination to, a public or party office.

**Section 31. NO SALARY TO PERSONS APPOINTED IN VIOLATION OF THIS ACT.** No salary, compensation, or other emolument shall be paid to any one appointed to or retained in any position in violation of this Act. Any official or officer approving, paying or causing to be paid such a salary or wage shall be liable personally for such sum, or any official's sureties shall be liable for such wage or salary being paid in violation of this Act. Whenever the Director of Personnel shall notify the auditing officers that any position has been filled in violation of this Act or any of the rules and regulations thereunder, no demand for the salary or compensation or other emolument of such position shall be approved or paid except upon the order of a court of competent jurisdiction. Whenever any legal action is brought growing out of the provisions of this Act said action must be instituted in

the courts within thirty days from the time the cause of action may have originated, and if suit is not brought within the thirty days the right of action shall be forever barred. Any person, however, acting in good faith, who accepts appointment or employment contrary to the provisions of this Act or of the rules, regulations and practices prescribed and set up thereunder shall be paid by the appointing authority the compensation promised by or on behalf of the appointing authority. If the appointing authority has not acted in good faith under the bona fide belief that its acts are in accord with the provisions of this Act, the salary or compensation paid to any person who has accepted appointment or employment contrary to the provisions hereof shall be a personal liability of such appointing authority or the persons officially constituting the same, jointly and severally, recoverable by the custodian of the public fund out of which salary or compensation may have been paid, or by the person who accepted such appointment or employment and rendered the services for which compensation is claimed.

Section 32. ACCOMODATION PROVIDED FOR. The Board of County Commissioners or Board of Revenue or other like governing body of the County shall provide suitable rooms and accommodations for Board and Director of Personnel, and cause the same to be furnished, heated and lighted, for carrying out the work of the Board, and shall cause to be furnished and paid for by the county all necessary stationery, postage, printing, clerical assistance and supplies upon the requisition of the Board.

Section 33. EXPENSES OF PERSONNEL BOARD. The salaries and all other expenses of the Personnel Board, the Personnel Director and all others arising under the provisions hereof, unless otherwise herein provided, shall be paid by warrants drawn by the Personnel Board and signed by at least two members thereof on the general fund of the county. At the end of the county's fiscal year it shall prorate the total sum which it has expended for the purposes of this Act between itself and the cities and/or appointing authorities subject to the Personnel Board of such county, charging each with such part of the total sum so expended as the total number of employees of such county, city, or appointing authority who were subject to the provisions of this act on the last day of the county's fiscal year bears to the total number of employees of all appointing authorities subject to the provisions of this Act on such last day of the county's fiscal year. The sum so arrived at by the county as the proper contribution of each shall be certified to the Director of Personnel and when approved by him in writing, shall become a liability of the respective county, city and/or appointing authorities and shall be paid immediately to the county. In the event the salaries of a county, city, or an appointing authority are paid in part from different treasuries or different funds, in the same treasury, the liability for this contribu-

tion shall accrue against such various treasuries or funds in the same proportion, as the salaries of the employees of the county, city or the appointing authorities are paid therefrom. In the event any contribution levied hereunder shall not be paid within thirty days after approval by the Personnel Director, the county may bring suit therefor in any court of competent jurisdiction and any judgment so recovered shall be satisfied from any funds in such treasury or funds against which such contribution levy lies.

**Section 34. SATISFACTION OF JUDGMENTS AGAINST APPOINTING AUTHORITIES.** Whenever under the last preceding Section of this Act liability for the payment of any sum of money is imposed upon any appointing authority it is the legislative intent that such liability shall be discharged out of the treasury or treasuries or other custodians of public funds out of which may be paid the salaries and compensations of the employees who hold their places through such appointing authority. Suits or proceedings for the collection of such sums may be brought directly against the county, city or custodian of the fund out of which such claim should be satisfied.

**Section 35. SEVERABILITY.** Each section of this act, and every part of each section are hereby declared to be independent sections and parts of sections, and the holding of any section or part thereof to be void, ineffective, or unconstitutional for any cause, shall not affect the other sections or parts thereof, and it is now declared that the other parts of sections would have been enacted regardless of any section or parts of sections which might be held unconstitutional, inoperative or ineffective. In the event this Act shall be held inapplicable or unenforceable as to any particular county or municipality or class of municipalities its validity and applicability to other counties or municipalities or classes of municipalities shall not be affected thereby.

**Section 36. PENALTIES.** Any person found guilty of doing any act herein declared to be a misdemeanor shall be punished as provided by section 5277 of the Code of Alabama.

**Section 37. REPEALING CLAUSE.** All laws or parts of laws inconsistent with or in conflict with this act are hereby expressly repealed, subject to the provision of Section 38 hereof, including but not limiting the generality hereof to all laws purporting to set up civil service plans or systems in such county or in any city therein. Specifically and again without limiting the generality of the above, all laws or parts of laws, whether local or general, the effect of which is to prescribe a different method of selection or appointment or to fix tenure of office or employment and the rate of compensation for services contrary to the express or implied effect and provisions hereof are repealed, it being the legislative intent that the terms of this act shall be fully ef-

fective, any law or parts of laws heretofore enacted, to the contrary notwithstanding.

Section 38. **EFFECTIVE DATES.** This act shall become effective immediately upon its enactment, provided, however, that when any county or municipality becomes subject hereto a period of ninety days shall be allowed in which to organize and prepare for the administration of the Civil Service System herein provided for in such county or municipality and during such period of ninety days the employees and appointees of such county or municipality shall continue in all respects under and subject to the laws to which they are subject at the time such county or municipality becomes subject hereto.

Approved August 28, 1935.

No. 288)

(H. 781—Welch.

### AN ACT

To amend Section 18 of an Act entitled, "An Act to establish Jury Boards in the several counties of this state, to fix the membership of said Boards, to prescribe the qualifications and terms of office and provide for the appointment of the members thereof; to fix their compensation and to define their duties; to provide for the appointment, duties and compensation of clerks of said Boards, for the qualifications of jurors, for the preparation of jury rolls and the emptying, filling and refilling of jury books; and to provide for the payment of the necessary expenses of the Board. (approved February 20, 1931)."

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 18 of an Act entitled, "An Act to establish Jury Boards in the several counties of this state, to fix the membership of said Boards, to prescribe the qualifications and terms of office and provide for the appointment of the members thereof; to fix their compensation and to define their duties; to provide for the appointment, duties and compensation of clerks of said Boards, for the qualifications of jurors, for the preparation of jury rolls and the emptying, filling and refilling of jury boxes; and to provide for the payment of the necessary expenses of the Board, (approved February 20, 1931)," be and the same is hereby amended to read as follows: Section 18. Whenever it shall appear to the Judge of the Circuit Court, or court of like jurisdiction, that the jury box is so nearly exhausted as to require refilling, he shall notify the President of the Jury Board, who in turn shall call together the other members of the Board and shall proceed to refill the box as herein provided; provided, however, the Judge of the Circuit Court, or court of like jurisdiction, may, whenever in his discretion he deems it necessary or expedient, call the Jury

Board together and empty and refill the jury box of the particular county, as herein provided.

Section 2. That all laws or parts of laws in conflict with the provisions of this Act be and the same are hereby expressly repealed.

Approved August 27, 1335.

No. 295)

(H. 852—Hendley

### AN ACT

To authorize and provide for the establishment of a fund to be known as the Minimum Program Fund, and to define procedures to be used in apportioning the Minimum Program Fund for the elementary and high schools in the various counties and cities of the State.

*Be it Enacted by the Legislature of Alabama:*

Section 1. MINIMUM PROGRAM FUND ESTABLISHED:—There is hereby established a fund for the public elementary and high schools of the State which shall be known as the Minimum Program Fund, and which shall be used for providing a minimum school term and for the equalization of educational opportunity. This fund shall comprise all appropriations made by the Legislature to the credit of the Minimum Program Fund, and any other funds set aside for that purpose. It shall include, among other funds, the appropriation previously known as The Equalization Fund, which is hereby made a part of the Minimum Program Fund.

Section 2. PURPOSES AND PLAN OF APPORTIONMENT.—In addition to all other appropriations and apportionments of public school money now provided by law and made available for elementary and high schools there shall be apportioned and paid to county boards of education from the Minimum Program Fund the amounts to be determined as hereinafter provided and in accordance with regulations of the State Board of Education. This Minimum Program Fund shall be used principally (1) to aid in providing at least a seven months' minimum term for all schools, and (2) to assist in the promotion of equalization of Educational opportunity for all children in the public elementary and high schools. The following requirements and procedures, supplemented when necessary by regulations of the State Board of Education, shall govern the apportionment of the fund:

1. REQUIREMENTS FOR PARTICIPATING IN THE FUND.—In order for the public schools of a county, including the independent cities, to share in the apportionment of the Minimum Program Fund, and to receive the maximum benefits therefrom, they shall meet the following conditions: a. The county

shall, for the year for which aid is requested, be levying and collecting the constitutional one mill county school tax, the constitutional three mill county school tax, and the constitutional three mill district school tax in the several districts covering the whole county, provided that in determining the funds to which any county not levying any one or more of these taxes or the equivalent is entitled, the proceeds from these taxes shall be considered as available for the educational program as though such taxes were actually being levied and collected. b. In the expenditure of all funds available for the Minimum Program as herein defined, the county shall as nearly as practicable provided the same length of term in all schools except in schools located in non-tax areas. c. Beginning July 1, 1935, the county shall provide a school term of at least 140 days, or such part of that school term as can be maintained by using funds available and as defined by regulations of the State Board of Education; provided, that in case any district or districts are not levying and collecting the three mill district tax or the equivalent the county board of education shall not be required to maintain in such district or districts the minimum term of 140 days; and provided, further, that in case the county board fails to operate any schools the minimum 140 day term, or the minimum term as defined by the State Board of Education, the needs of the county shall be computed only for the actual period the schools are in session that year. d. Beginning July 1, 1935, the county shall expend funds allotted for teachers' salaries in accordance with a salary schedule or schedules adopted by the county board of education and approved by the State Superintendent of Education, provided such salary allotments are at least equivalent to those allotted in the State minimum salary schedule. e. As soon as practicable after July 1, 1935, the county board of education shall submit to the State Superintendent of Education for his approval under the regulations of the State Board of Education, the following: 1. A proposed county-wide building program which sets out in detail the location of all present and proposed buildings; which indicates proposed educational centers and grades to be taught at these centers, and which provides schools for all the children of the county. (2) A proposed transportation program showing the proposed routing of busses and the condition of all roads to be used for transportation. f. Any independent city in the county whose program is computed as a part of the county program shall meet such minimum standards as are required of the county board of education. g. The county or independent cities within the county shall meet such other standards as may be set up by the State Board of Education to promote equal educational opportunity and provide better schools. 2. DETERMINING THE COST OF THE SEVEN MONTHS OR ESTABLISHED MINIMUM PROGRAM.—In determining the



cost of the seven months minimum program or whatever term may be established to be equalized, the State Board of Education shall proceed to find the following allowable costs for each county, including the independent cities: Teachers' salaries, transportation, current expenses other than teachers' salaries and transportation, and, for the county excluding the cities, capital outlay. a. The minimum program allowance for salaries of teachers shall not exceed salaries paid, and shall be determined as follows: The number of teacher units in each county, including the cities, shall be multiplied by the amount or amounts per teacher unit to be fixed by the State Board of Education, which amounts shall be based on the average salaries for each major classification required by the operation of the minimum salary schedule or schedules adopted by the State Board of Education. In determining the number of teacher units to be allowed, the State Board of Education shall from time to time cause an investigation to be made of current practices in regard to teacher load in various types of schools and in counties falling in different density of population groups. The basis for determining the teacher unit shall give due regard to types of schools, density of population and to other pertinent factors. If the number of elementary or high school teachers employed is less than the number of approved teacher units in any county as computed in accordance with the regulations of the State Board of Education, the State Superintendent of Education may in his discretion use the total number of teachers employed, or any intermediate number between such actual number and the number of units allowed, as explained above, in ascertaining the minimum program fund to be apportioned as provided hereinafter; provided such allowances shall be made in so far as possible on an objective basis to be established by regulations of the State Board of Education. In determining the salary schedule or schedules which shall control the expenditure of funds allowed for teachers' salaries the State Board of Education shall from time to time cause an investigation to be made of the current practices in regard to salaries paid various employees engaged in instructional services of the several county and city boards of education, giving due consideration to the academic and professional preparation of employees, to the length of service rendered, and to the cost of living. Nothing herein shall be construed to restrain counties or cities from the use of higher salary schedules than the minimum salary schedule set up by the State Board of Education. b. The minimum program allowance for transportation shall be determined as follows for any county: The number of pupils transported on transportation routes approved under regulations of the State Board of Education shall be multiplied by an amount per pupil which is to be fixed by the State Board of Education and applied to counties within groups having

similar density of population; provided, studies shall be made from time to time to determine whether the cost allowed per pupil or the cost unit should be changed in any or all counties. In determining the amount to be allotted for transportation no allowance shall be made for transporting pupils who live less than two miles from the school they are attending unless such pupils can be shown to be physically handicapped and to require transportation. The total amount allotted any county for transportation shall not exceed a figure determined by the State Board of Education in terms of the ratio between pupils transported to school and the total number of pupils attending school in that county or some similar ratio established by the State Board of Education. Any county which qualifies to have transportation included in its minimum program must provide busses which meet minimum standards established by the State Board of Education, and must take such other steps to protect the safety of the children as are required under regulations of the State Board of Education. c. The minimum program allowance for current expense other than teachers' salaries and transportation shall be determined by allowing a uniform percentage to be fixed by the State Board of Education. In addition, any amount spent from county and local funds for vocational education, which has been approved under the regulations of the State Board of Education, shall be included in the Minimum program. d. The amount allowed to each county board of education for capital outlay in the minimum program shall be determined under regulations of the State Board of Education, based largely on the number of teacher units. All counties which participate in this allowance shall submit an annual building program and otherwise comply with the requirements of law and the regulations of the State Board of Education regarding capital outlay expenditures. e. The total cost of the minimum program in any county shall be the total allowed for teachers' salaries, for transportation, for current expenses other than salaries of teachers and transportation, and for capital outlay.

3. DETERMINING THE FUNDS AVAILABLE TO PROVIDE THE PROGRAM.—The funds available to meet the cost of the seven months minimum program or of the program for whatever minimum term may be established by the State Board of Education shall be determined as follows: To the sum total of all funds from State appropriations and apportionments, available for elementary and secondary schools in any and all school systems in the county, add the total yield of an assessment of the three mill district tax in the several districts covering the whole county and the total yield of an assessment of two mills of a county-wide school tax on all taxable property of the county. The total of these funds shall be considered the total funds available to meet the total cost of the seven months minimum program. 4.

DETERMINING MINIMUM PROGRAM FUNDS NEEDED BY ANY COUNTY FOR THE SEVEN MONTHS OR THE ESTABLISHED MINIMUM TERM.—The funds needed by any county to carry on the seven months minimum program or the program for the term established by the State Board of Education shall be determined by subtracting the funds available as explained under Sub-Section 3 from the cost of the program determined as explained under Sub-Section 2. The difference shall be provided for out of the Minimum Program Fund and paid to each county board of education as provided in this Act. If the funds available are greater than the cost of the program, the county shall not be entitled to any minimum program funds. 5. DETERMINING MINIMUM PROGRAM FUNDS NEEDED TO PROVIDE AN ADDITIONAL TERM OF TWO MONTHS FOR THE HIGH SCHOOLS.—The funds needed by any county including the independent cities to continue its high schools in session for the customary two months term beyond the seven months minimum as outlined above shall be determined as follows: a. Find the approved cost of operating the high schools for two months by allowing salaries of teachers for the approved number of teacher units and allowing transportation for the approved number of high school pupils transported for these two months. To these costs are to be added any other necessary expenditures approved under regulations of the State Board of Education and for which no funds are otherwise available; provided no principal of any debt service may be included in these approved expenses except after all capital outlay allowances in the minimum program have been used for debt service instead of new buildings and except after all reasonable possibilities of refinancing have been exhausted. b. To the total yield of an assessment of two mills of the county-wide tax of all taxable property of the county add the average yield for previous four years from the poll tax for that county. c. If in any county including the cities the cost of operating the high schools two months as outlined above and of other approved and necessary expenditures beyond the minimum program is greater than revenues available to meet this part of the program, the difference shall be paid from the Minimum Program Fund. 6. STATE BOARD TO DETERMINE PERCENTAGE ALLOTMENTS.—The State Board of Education shall determine the percentages of the costs of the minimum program which shall be allotted to other than teachers' salaries; provided that such percentages shall be subject to the limitations imposed by the preceding sub-sections.

Section 3. REPEAL OF CONFLICTING LAWS.—That all laws and parts of laws, general, special or local, in conflict herewith be and the same are hereby repealed.

Section 4. UNCONSTITUTIONALITY OF PROVISIONS: EFFECT OF.—If any section or provision of this act is declared unconstitutional, it shall not affect the remaining sections or provisions.

Section 5. EFFECTIVE DATE.—That the provisions of this Act shall be effective on its approval by the Governor.

Approved September 2, 1935.

No. 296)

(H. 870—Goodwyn.

### AN ACT

To Regulate Further The Financing Of Public Improvements, To Permit The Reduction Or Abatement Of Assessments Therefor In Certain Cases, To Provide For The Refunding Of Bonds Issued Therefor And To Validate Proceedings Heretofore Taken Relating Thereto In Cities Having A Population Of As Many As Fifty Thousand And Less Than One Hundred Thousand People According To The Last Federal Census Or Any Such Census Which May Hereafter Be Taken.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the provisions of this Act shall apply only to cities in the State of Alabama which have a population of as many as fifty thousand and less than one hundred thousand people according to the last Federal census or which shall hereafter have such a population according to any such census that may be taken hereafter.

Section 2. That the governing body of any city of the class described in Section 1 hereof shall have power to reduce or abate any assessments heretofore or hereafter made for public improvements in such city in cases where such assessments have been levied or attempted to be levied against property owned by the State of Alabama or by such city or by the county in which such city is located or by any church, hospital or other charitable organization or in any case where the governing body after due inquiry has determined that the assessment on any particular property has been made erroneously or in excess of the benefit derived by such property or so great as to constitute an undue burden upon the property, having in view the value thereof, whether or not such assessment shall have been made final and the time to appeal therefrom expired, provided, however, that it is not intended hereby to authorize such governing body in any case to set aside or abate all assessments made for any public improvement.

Section 3. That the governing body of any city of the class described in Section 1 hereof shall have the power, pursuant to and in the manner provided by the "Municipal Bond Code" of Alabama, to settle, adjust and refund any bonds of such city heretofore or hereafter issued to provide the cost of street, sidewalk or sewer

improvements whereof the cost in whole or in part was assessed against the property abutting said improvements, whether such bonds have already become due and payable or are about to become due and payable or are callable according to their terms, and the said governing body deems it to the best interest of the city to call said bonds and raise funds for the payment thereof by the sale of bonds as herein authorized, provided, however, that all sums derived from the payment of assessments and being in the hands of the city at the time of such refunding shall be first applied to the payment of the outstanding bonds and refunding bonds shall be issued only in such amount as shall be necessary to raise the difference between the amount required for the payment of the outstanding bonds and the amount held for the payment thereof.

Section 4. That in any case where the city of the class described in Section 1 hereof has used any part of its water works fund or other special fund of like character for the purpose of taking up at maturity bonds or coupons representing a portion of the principal of bonds which had heretofore been issued for public improvements and which had fallen due, the provisions of the preceding Section hereof shall be construed to permit either the issuance of refunding bonds to the City Treasurer as custodian of such fund, or the sale of such bonds for the purpose of replacing in such fund, all moneys of such fund so used.

Section 5. That in exercising the powers conferred by the preceding sections hereof it shall not be necessary to make a separate issue of refunding bonds with respect to each outstanding issue, but two or more of such outstanding issues or portions thereof may be grouped together in a single refunding issue, in which event all assessments thereafter collected with respect to any of the improvements financed by the separate issues or the proper proportionate part thereof, shall be applicable to the payment of such refunding bonds.

Section 6. That a separate sinking fund account shall be provided and kept for each refunding bond issue authorized under the provisions hereof to which shall be credited all collections made on assessments levied with respect to the improvements financed by the original issues of bonds or the proper proportionate part thereof, and such sinking fund shall be used only for the purpose of paying interest and principal on such bonds in that particular group or series as they mature, and the balance needed for the payment of principal and interest by reason of the reduction or abatement of assessments as herein provided or by reason of failure to collect assessments or otherwise, shall be provided out of the general funds of the city raised by taxation or otherwise.

Section 7. That all proceedings heretofore taken with respect to the reduction or abatement of assessments or the issuance of bonds for the purposes herein specified and all sales of such bonds

heretofore made, be and the same hereby are ratified.

Section 8. That the powers herein given are cumulative and shall not be construed as depriving cities of the class described in Section 1 hereof of any powers now provided by law in connection with such matters.

Section 9. This law shall become effective upon its approval by the Governor of Alabama.

Approved September 2, 1935.

No. 297)

(S. 112—Walton

### AN ACT

To regulate General Contracting.

*Be it Enacted by the Legislature of Alabama:*

Section 1. For the purpose of this Act a "general contractor" is defined to be one who, for a fixed price commission, fee or wage, undertakes to construct or superintend the construction of any building, highway, sewer, grading, or any improvement or structure, where the cost of the undertaking is ten thousand dollars or more, and any one who shall engage in the construction or superintending the construction of any structure or any undertaking or improvements above mentioned, in the State of Alabama, costing ten thousand dollars or more, shall be deemed and held to have engaged in the business of general contracting in the State of Alabama.

Section 2. There shall be a State Licensing Board for General Contractors, consisting of five members, who shall be appointed by the Governor. At least one member of such Board shall have, as a larger part of his business, the construction of highways. At least one member of such Board shall have as a larger part of his business, the construction of public utilities. At least one member shall have, as a larger part of his business, the construction of buildings. The members of the Board shall be appointed for one, two, three, four and five years, respectively, their terms of office expiring on the 31st day of December of said years. Thereafter in each year the Governor, in like manner shall appoint to fill the vacancy caused by the expiration of the term of office of a member, for a term of five years. Each member shall hold over, after the expiration of his term, until his successor shall be duly appointed and qualify. If a vacancy shall occur in the Board for any cause, the same shall be filled by appointment by the Governor, and the Governor may remove any member of the Board at any time, with or without cause.

Section 3. Each member of the Board shall, before entering upon the discharge of the duties of his office, take and file with

the Secretary of State, the oath required by Section 279 of the Constitution of Alabama.

Section 4. When he appoints said Board, he shall designate and commission one of its members as Chairman, another as Vice-Chairman and another as Secretary-Treasurer. Said Board shall have the power to make such by laws, rules and regulations as it shall deem best, provided the same shall not conflict with the laws of the State of Alabama. The Secretary-Treasurer shall give bond in such sum as the Board shall determine with such surety as shall be approved, said bond to be conditioned upon the faithful performance of the duties of his office and for the faithful accounting of all monies and other properties as shall come into his hands. Each member of the Board shall receive ten dollars per day for attending sessions of the Board or its committee, and for time actually spent in necessary travel in attending meetings of said Board or its committees and in addition shall be reimbursed for necessary traveling and clerical expenses incurred in carrying out the provisions of this Act. All expenses certified by the Board as properly and necessarily incurred in the discharge of its duties, including authorized compensations, office rent and supplies shall be paid out of said fund signed by the Secretary-Treasurer of the Board; provided, however, that at no time in any one calendar year shall the total amount of warrants issued exceed the total amount of funds accumulated under this Act.

Section 5. The Board shall adopt a seal for its own use. Such seal shall have the words "License Board for Contractors, State of Alabama," and the Secretary shall have the charge, care and custody thereof.

Section 6. The Board shall meet within ten days after the members thereof are first appointed, for the purpose of receiving applications for a certificate to engage in the business of general contracting and for the transaction of such other business as may come before it and thereafter shall have two regular meetings in each year, one in April and one in October, for the purpose of transacting such business as may properly come before it, and as many special or adjourned meetings as the Board may deem necessary, on call of the Chairman of the Board. The April and October meetings shall be held on the first Monday in April and the first Monday in October, respectively, at 10:00 o'clock A. M. Special or adjourned meetings may be held at such time as the Board may provide by the by-laws it shall adopt, or at such time as the Board may by reasonable resolution provide. Due notice of each meeting and the time and place thereof shall be given to each member in such manner as the by-laws shall provide. Three members of the Board shall constitute a quorum. All meetings of the Board shall be held in the City of Montgomery, Alabama. Whenever as many as five applications for a certificate to engage

in the business of general contracting are filed with the Board, the Board shall call a special meeting within 30 days to hear, consider and dispose of said applications.

Section 7. The Secretary-Treasurer shall keep a record of the proceedings of said Board; shall receive and account for all the monies derived from the operation of this Act. Any funds remaining in the hands of the Secretary-Treasurer to the credit of the Board after expenses of the Board for the current year have been paid, shall be paid over to the State Treasurer to the credit of the general fund of the State, on or before the 15th day of January in each succeeding year. The Board has the right, however, to retain at least ten percent of the total expense it incurs for a year's operation, to meet any emergency that may arise.

Section 8. The Secretary-Treasurer shall keep a record of the proceedings of the Board and a register of all applicants for license, showing for each the date of application, name, qualification, place of business, place of residence, and whether the license was granted or refused. The books and register of this Board shall be prima facie evidence of all matters recorded therein and a certified copy of such books or register, under the seal of the Board, attested by its Secretary, shall be received in evidence in all courts in this State in lieu of the original. A roster showing the names and places of business and of residence of all licensed general contractors shall be prepared by the Secretary of the Board as soon as convenient after the Board shall have organized and during the month of January of each year succeeding. Such roster shall be printed by the Board out of funds of said Board, as provided in Section 7, and a copy mailed to and placed on file by the Clerk of each incorporated city and town in the State and to and by the Probate Judge of each County in the State. On or before the 1st day of March of each year the Board shall submit to the Governor a report of its transactions for the preceding year and shall file with the Secretary of State a copy of such report, together with a complete statement of receipts and expenditures of the Board, attested by the affidavit of the Chairman and Secretary and a copy of said roster of licensed general contractors.

Section 9. Any one hereafter desiring to be licensed a general contractor in this State, shall make and file with the Board thirty days prior to any regular or special meeting thereof, a written application on such form as may then be by the Board prescribed, for examination by the Board, which application shall be accompanied by fifty dollars. If said application is satisfactory to the Board, then the applicant shall be entitled to an examination to determine his qualifications. If the result of the examination of any applicant shall be satisfactory to the Board, then the Board shall issue to the applicant a certificate to engage in general contracting in the State of Alabama. Any one failing to pass such



examination may be re-examined at any regular meeting of the Board without additional fee. The certificate of authority to engage in the business of general contracting in the State of Alabama shall expire on the last day of December following its issuance or renewal, and shall become invalid on that date unless renewed. A renewal may be effected any time during the month of January by the payment of a fee of twenty-five dollars to the Secretary of the Board.

Section 9-1/2. When the Board conducts an examination of applicants for license, as much as three days may be devoted to written or oral examination within the discretion of the Board to ascertain the ability of the applicant to make a practical application of his knowledge of the profession of general contracting and shall investigate thoroughly the financial responsibility and past record of all applicants which will include an effort towards ascertaining the qualifications of applicant in reading plans and specifications, estimating costs, construction, ethics and other similar matters. The Board shall take all applicants under consideration after having examined him or them and go thoroughly into the records, examination papers, oral and written examinations, prior to granting any certificate of license. Whenever a corporation is an applicant for a license as general contractor, the State Licensing Board shall designate the officer of the corporation to stand the examination on behalf of the corporation.

Section 10. The Board shall have the power to revoke the certificate of license of any general contractor licensed hereunder who is found guilty of any fraud or deceit in obtaining a license or gross negligence, incompetence or misconduct in the conduct of his business. Any person may prefer charges of such fraud, deceit, negligence or misconduct against any general contractor licensed hereunder. Such charges shall be in writing and sworn to by the complainant and submitted to the Board. Such charges, unless dismissed without hearing by the Board as unfounded or trivial, shall be heard and determined by the Board within thirty days after the date in which they were preferred. A time and place for such hearing shall be fixed by the Board and held in the County in which said charges originated. A copy of the charges together with the notice of the time and place of hearing, shall be legally served on the accused by the Secretary of the Board, or any sheriff in the State, or by registered mail, at least ten days before the fixed date for the hearing, and in the event that such service cannot be effected ten days before such hearing, then the date of hearing and determination shall be postponed as may be necessary to permit the carrying out of this condition. At said hearing the accused shall have the right to appear personally and by counsel and to cross-examine witnesses against him, her or them, and to produce evidence of witnesses in his,

her or their defense. If after said hearing the Board votes in favor of finding the accused guilty, the Board shall revoke the license of the accused. The Board may reissue a license to any person, firm or corporation whose license has been revoked. The Board shall immediately notify the Secretary of State and the clerk of each incorporated city, town or county in the State of its finding in the case of the revocation of a license or of the reissuance of a revoked license. A certificate of license to replace any certificate lost, destroyed or mutilated may be issued subject to the rules and regulations of the Board.

Section 11. The issuance of a certificate of license by this Board shall be evidence that the person, firm or corporation named therein is entitled to all the rights and privileges of a licensed general contractor while the said license remains unrevoked or unexpired.

Section 12. Any person, firm or corporation not being duly authorized, who shall engage in the business of general contracting in this State, except as provided for in this Act, and any person, firm or corporation presenting or attempting to file as their own the license certificate of another, or who shall give false or forged evidence of any kind to the Board, or to any Member thereof, in obtaining a certificate of license, or who falsely shall impersonate another, or who shall use an expired or revoked certificate of license shall be deemed guilty of a misdemeanor and shall for each such offense of which he is convicted, be punished by a fine of not less than Five Hundred Dollars (\$500.00) or imprisonment of six months, or both fine and imprisonment, in the discretion of the Court.

Section 13. The following shall be exempted from the provisions of this Act; the practice of general contracting as defined in Section 1 of this Act by an authorized representative or representatives of the United States Government, State of Alabama, incorporated town, city or county in this State; provided, however, that such operation shall be under the supervision of a licensed architect or resident engineer, and the construction of any residence or private dwelling, and provided further that any contractor now licensed to engage in the business of general contracting in the State of Alabama shall prima facie be entitled to a license, unless good cause be shown to the Board why such license should not be issued to him, provided such contractor makes application for such license within sixty days after this Act becomes effective.

Section 14. All architects and engineers preparing plans and specifications for work to be contracted in the State of Alabama shall include in their invitations to bidders and in their specifications a copy of this Act or such portions thereof as are deemed necessary to convey to the invited bidder whether he be a resident

or non-resident of this State and whether a license has been issued to him or not, the information that it will be necessary for him to show evidence of license before his bid is considered. It shall be the duty of the Secretary of the Board to make a monthly report from and after the ratification of this Act, to the Governor, setting out in detail the name of the contractor, the location of the structure, or work, and the estimated cost of said structure or work, where the same shall exceed in value ten thousand dollars, for all contracts let coming to his notice and not theretofore reported by him.

Section 15. No awarding authority or its agent shall issue to others than a licensed general contractor, or his authorized representative, plans or specifications or proposed forms, where these are required; and where bids are to be received on forms furnished by the awarding authority, no proposal forms or plans or specifications shall be issued to any one except a licensed general contractor or his authorized representative.

Section 16. In all prosecutions of the violation of the provisions of Section 12 of this Act, for engaging in the business of general contracting without a certificate of authority, it shall be sufficient to allege in the indictment affidavit or complaint that "A. B. unlawfully engaged in business as a general contractor, without authority from the licensing Board for contractors so to do."

Section 17. Any party aggrieved by any decision of the State licensing board, either in denying an application for license as a general contractor or in revoking a license, may appeal to the Circuit Court of Montgomery County, in Equity, by filing a bond with the Clerk of said Court, conditioned to pay all costs of the appeal. Upon notice of said appeal being served upon the licensing Board, an issue shall be made up by the court between the appellant and the licensing Board, in which appellant shall allege in what respect the action of the licensing Board was erroneous and prejudicial to him; whereupon the court shall hear the evidence and without regard to the decision of the licensing Board, shall render such decision as the Court is of the opinion the licensing Board should have rendered in the first instance.

Section 18. If any section, sentence or provision of this Act shall be held unconstitutional, such holding shall not affect the remainder of the Act not in itself unconstitutional.

Section 19. This Act shall take effect sixty days after its approval by the Governor and all laws and parts of laws in conflict herewith are hereby specially repealed.

Approved September 2, 1935.

No. 299)

(S. 350—Rogers.)

## AN ACT

To amend Section 4768 of the Code of Alabama of 1923.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 4768 of the Code of Alabama be amended so as to read as follows: "4768. ALLOWANCE FOR OFFICERS ATTENDING AND PROSECUTING CONDEMNATION PROCEEDINGS; HOW TAXED AND PAID. — There shall be allowed the officer making the seizure under a search warrant the sum of three dollars, and also the sum of two dollars additional for every day that such officer shall necessarily be employed in attending court for the purpose of causing liquors seized to be condemned, and the sum of ten cents per mile for each mile he shall travel in executing the writ, together with such reasonable sum as the court may deem just for necessary expenses incurred in transporting and providing storage for liquors and vessels seized; provided, however, that where a warrant is issued to any peace officer acting under the laws of the State of Alabama to search a designated place for prohibited liquors and beverages, and such officer executes such warrant and seizes such liquors or beverages, but fails to arrest any person or persons for having such prohibited liquors or beverages in his or their possession, then no fees, mileage or allowances shall be paid to any one for any service under this article; provided, further, that where a warrant is issued to any peace officer acting under the laws of the State of Alabama to search a designated place for prohibited liquors or beverages, and such officer executes said warrant, seizes such prohibited liquors or beverages, arrests one or more persons alleged to have had the possession of such liquors or beverages at the time of said seizure, and said person is tried and acquitted of the charge or charges arising out of the possession, use, or sale of said seized prohibited liquors or beverages by the Court having jurisdiction of the cause, or the cause is not pressed by such court or withdrawn and filed, then the fees, mileage or allowances above named shall be taxed and paid as in criminal prosecutions in which the State fails, upon the Court, or Judge, or Justice making an order to that effect, if, however, the arrest of one or more persons alleged to have had the possession of such liquors or beverages be made and the defendant or defendants finally convicted, the costs or fees hereinabove set out shall be taxed in the bill of costs against such defendant, or defendants, and if not collected from such defendant or defendants, so convicted shall be taxed and paid as in criminal prosecutions in which the State fails, upon the Court, or Judge or Justice making an order to that effect.

Section 2. This law shall become effective immediately upon its passage and approval by the Governor.  
Approved September 2, 1935.

No. 300)

(S. 351—Stephens.

### AN ACT

To establish a budget system and provide for the preparation of a budget for each county and city school system in the State; to provide that the budgeted current expenditures shall not exceed the budgeted income of each such board of education; to provide that the actual payments shall not exceed the budgeted payments except on approval of the county or city board of education and of the State Superintendent of Education; to provide that the actual payments shall not exceed the actual income plus balances except in the issuance of warrants for capital outlay purposes; to authorize county and city boards of education to borrow funds against the current year's revenues when necessary to pay their current expenses; to regulate and restrict borrowing for capital outlay purposes, and to authorize and regulate the issuance of warrants or notes to pay debts incurred prior to July 1, 1935.

*Be it Enacted by the Legislature of Alabama:*

Section 1. BUDGET SYSTEM ESTABLISHED FOR COUNTY AND CITY SCHOOL SYSTEMS.—There is hereby established a budget system for the public schools of each county and city in the State for the purpose of promoting economy and efficiency in the finances of said public schools.

Section 2. FORM OF ANNUAL BUDGET REQUIRED.—The annual budget which shall be prepared and adopted by each county and each city board of education on or before the first day of July of each year shall be prepared and submitted to the State Superintendent of Education according to the classifications and items specified on forms provided by him and in accordance with regulations of the State Board of Education.

Section 3. STATE COMPTROLLER AND STATE SUPERINTENDENT TO ESTIMATE FUNDS.—On or before the 15th day of May of each year, the State Comptroller or such State official as may be charged by law with the responsibility of estimating the income from the various State revenue measures shall certify to the State Superintendent of Education the income estimated to be available during the next fiscal year to meet the various appropriations for the public elementary and high schools of the State. The State Superintendent shall thereupon estimate the amount of each of these funds to be prorated to each of the school systems of the State during the next fiscal year and shall certify as soon as possible, and not later than June first, to each County and City Superintendent of education these estimates of funds to be available to the various county and city boards of education.

**Section 4. COUNTY AND CITY TREASURER TO CERTIFY ESTIMATED FUNDS AVAILABLE.**—On or before the 15th day of May, the county treasurer of each county and the city treasurer of each city, the county tax collector, the county tax assessor, or the official or officials in each county and city who are charged by law with the responsibility of determining or estimating revenues to be available for the operation of government in that county or city shall certify in writing through the county or city superintendent of education in charge of schools in that county or city to the county or city board of education the assessed valuation of property on which taxes are to be collected during the next fiscal year and the amount of school taxes which may reasonably be expected to be derived from assessed valuations during that year. This official or these officials shall also certify in writing through the county or city superintendent of education to the county or city board of education the amount which may be expected to be available from any other fund or funds set aside by law or ordinance or in any other manner for school purposes in that county or city.

**Section 5. BUDGETED EXPENDITURES MAY NOT EXCEED BUDGETED INCOME.**—No county or city superintendent of education shall recommend and no county or city board of education shall approve any budget for the operation of the schools during the next or any fiscal year which shall show current expenditures which are in excess of receipts which can reasonably be estimated to be available on the basis of official statements submitted by the various state and county officials as required in Sections 3 and 4 above, plus any balances on hand; and provided further that no county or city superintendent of education may recommend, and no county or city board of education may approve any budget for the next or any fiscal year showing a total expenditure in excess of anticipated receipts derived from sources other than borrowing, plus balances, except under conditions set forth below governing the issuance of warrants for capital outlay purposes.

**Section 6. WHEN BUDGET IS OFFICIAL.**—A budget shall become official and shall be followed in the matters relating to the financial operation of the schools of any County or City when it has been prepared by the superintendent of education and approved by the board of education of that county or city, in accordance with conditions prescribed above, and when an approved copy of the budget has been filed with and approved by the State Superintendent of Education; provided this budget may be amended at any time prior to October first by recommendation of the local superintendent of education and local board of education; and upon approval of the State Superintendent of Education; and provided further that the State Superintendent of Edu-

cation shall have authority to recommend any changes in the proposed budget which would tend to result in the more efficient and economical operation of the schools in that county or city. No budget which has been adopted and has become official shall be modified in any major respect during the year without approval of the State Superintendent of Education.

Section 7. WHEN ACTUAL EXPENDITURES MAY EXCEED BUDGETED EXPENDITURES. — The official school budget of any County or City Board of education shall govern and regulate the expenditures of the schools of that County or city during the ensuing fiscal year. The actual expenditures of any county or city board of education shall not, in any case, exceed the proposed expenditures except when there is an expendable balance and under the following condition: The superintendent of education in that county or city shall prepare a statement which shall be approved by his board of education and a copy of which shall be filed with and approved by the State Superintendent of Education, stating that an emergency exists, explaining the nature of the emergency, giving justifications for the actual expenditures exceeding the proposed expenditures in the official budget, and setting forth the proposed changes.

Section 8. ACTUAL EXPENDITURES MAY NOT EXCEED ACTUAL INCOME PLUS BALANCES: CAPITAL OUTLAY WARRANTS EXCEPTED.—The actual expenditures by any county or city board of education shall not in any case exceed the actual income of the board during that year, plus any balances on hand, except under conditions set forth in Section 10 below regulating the issuance of warrants for capital outlay purposes, provided this section shall not operate to prevent any board of education from making such adjustments in the various major items in the budget as may be considered necessary and desirable and as are approved by the State Superintendent of Education, but shall apply only when the total actual expenditures are about to exceed the total actual income.

Section 9. FUNDS MAY BE BORROWED AGAINST REVENUES OF CURRENT YEAR.—Any county board of education or any city board of education shall have authority upon the recommendation of the county superintendent of education or city superintendent of education, as the case may be, to borrow money on the credit of the school fund of that county or city to meet the salaries of teachers and other current expenses when the current funds on hand are not sufficient to meet the same, and as security therefor, to pledge the current revenues of the current fiscal year. It shall be the duty of the county board of education and the county superintendent of education or city board of education and city superintendent of education to secure such a loan if practicable, when the current funds on hand are not suffi-

cient promptly to pay teachers' salaries and other current expenses. All such current loans shall be due and payable not later than the end of that fiscal year. Provided however, that the county board of education or the city board of education may issue certificates of indebtedness for payment of current expenses which are due when funds on hand are not sufficient to pay such obligations and when an adequate loan cannot be secured. Such certificates of indebtedness shall become due and payable not later than the close of the fiscal year in which they are issued and shall pledge the current revenues of that fiscal year. At no time shall loans be secured or certificates of indebtedness be issued for current expenses during any year which shall pledge school revenues of any other fiscal year. The amount which is borrowed, either by loan or certificate of indebtedness, shall at no time exceed one-third of the sum paid for all current expenses, including teachers' salaries during the preceding school year. Boards of education shall have authority to pay interest at the rate of not exceeding six per cent (6%) per annum on such loans or such certificates of indebtedness as may be issued.

Section 10. LIMITATIONS ON ISSUANCE OF WARRANTS AGAINST SCHOOL FUNDS FOR CAPITAL OUTLAY PURPOSES. County and city boards of education may include in their budgets plans for issuing and may issue, subject to the rules and regulations of the State Board of Education, and to the limitation set forth in (a) below, callable warrants bearing not over six per cent interest per annum for the erection, alteration, and equipment of school buildings, or other capital outlay purposes, said warrants to be issued against revenues to be derived from school taxes available for such purposes as set forth in Section 13. (281) a. WARRANTS CANNOT BE ISSUED WHEN THE MINIMUM PROGRAM OF THE SCHOOLS WOULD BE JEOPARDIZED.—No county or city board of education may issue warrants for capital outlay purposes when the issuance of such warrants would obligate funds needed to operate the schools in said county or city in accordance with the state minimum program as defined by regulations of the State Board of Education. In order that the minimum program may be properly safeguarded, the county or city boards of education through the county or city superintendents of education shall make application to the State Superintendent of Education on forms to be prescribed by him, giving the amount of warrants proposed to be issued, giving the amounts of principal and interest to be paid each year in retiring such warrants and showing that payments of principal and interest will be arranged to require approximately equal payments each year. The State Superintendent of Education may approve the proposed issue of warrants when it can be shown that no funds needed to carry on the minimum school pro-



gram in that county or city will be obligated to pay principal or interest due on the proposed warrant issue, and shall not approve the proposed issue of warrants when it can be shown that funds will be obligated to retire those warrants which might be needed to carry on the minimum program of the schools in that county or city. No warrants for capital outlay purposes shall be issued by any county or city board of education except under conditions herein set forth and under the regulations of the State Board of Education, and with the approval of the State Superintendent of Education.

**Section 11. WARRANTS MAY BE ISSUED TO PAY DEBTS CREATED PRIOR TO JULY 1, 1935.**—In order to pay debts not otherwise funded which were incurred for legitimate obligations prior to the first day of July, 1935, any county board of education or any city board of education may borrow money and as security therefor, or in payment of such loans, shall issue callable warrants or execute promissory notes bearing interest at a rate of not to exceed six per cent per annum, payable at such time as may be agreed upon; or may sell such warrants or notes at par and use the proceeds in the settlement of such debts. All warrants or notes so issued shall be payable out of such school funds of the county or city as may be available for such purposes. Payments of principal and interest on such warrants or certificates of indebtedness shall be arranged so as to require approximately equal payments each year over a period of not to exceed fifteen (15) years. When these outstanding debts have been funded in accordance with the provisions of this section, no other warrants may be issued or debts incurred, except in accordance with the provisions of this Act.

**Section 12. MARKETING WARRANTS.**—Before any warrants issued by any county or city board of education, in accordance with the provisions of this act, shall be sold at least five agencies dealing in warrants shall receive notification of the proposed issue and sale and shall be given an opportunity to make competitive bids for said issue, and said warrants shall be sold to the highest responsible bidder offering the lowest rate of interest. In the marketing of said warrants said board shall be entitled to have such assistance as can be rendered by the Governor, the State Treasurer, the State Comptroller, the State Superintendent of Education, or any other state agency.

**Section 13. WARRANTS PREFERRED CLAIMS: PENALTY FOR DIVERSION OF FUNDS.**—All warrants with interest thereon issued under the provisions of this act by county boards of education and city boards of education shall be signed in the name of the issuing board by its president and shall be preferred claims each year during the period for which the warrants are issued upon the proceeds of the tax levy upon which they are

based. The county board of education shall, by resolution entered on its minutes, set apart for each year so much of the county tax income, or when the warrants are issued for the benefit of a school district, set apart for each year so much of the district tax income, as will be necessary to meet annual interest and principal payments on all warrants issued against such tax or taxes. In the event the proceeds arising from a district school tax levy in a district under the control of the county board of education are insufficient in any year to pay with interest maturing warrants issued against such tax levy, the board shall set apart from the special county three-mill school tax income a sum which with the district tax income, will be sufficient to pay such warrants with interest. The city board of education shall set aside annually funds sufficient to pay such warrants and interest as mature during that year. Funds set apart under the provisions of this section shall be used exclusively for the purpose for which they are set apart. Any person or officer who diverts or causes the diversion of such funds, or any part thereof, to any other purpose, shall be personally liable in the amount of such diversion, and his bond, if he be bonded, shall also be responsible in such amount together with the expense of recovering it. (283-286)

Section 14. RECORD OF WARRANTS.—The county board of education or the city board of education, as the case may be, shall keep in its minutes a complete record of all warrants issued under the provisions of this Act, which record shall show upon what authority the warrants are issued, the amounts in which issued, the person to whom issued, the dates of issue and of maturity, the purpose or purposes for which issued, and the rate of interest to be paid. (284).

Section 15. If any section or provisions of this Act is declared unconstitutional, it shall not affect the remaining sections or provisions.

Section 16. All laws and parts of laws, general, special, or private, in conflict with the terms and provisions of this Act are hereby repealed.

Section 17. This act shall be effective and become operative immediately upon its passage and approval by the Governor.

Approved September 2, 1935.

No. 301)

(S. 325—St. John.

## AN ACT

To provide for the extension of the county three mill and county one mill school taxes by the legally qualified voters of a county where such taxes have already expired or will expire before October 1, 1950, to enable the superintendent and board of education to be in better position to take advantage of Federal funds which have been or may be made available for the construction, addition to, alteration, repair, or renovation of needed school buildings, and to provide the term of extension of such taxes as have not expired, and to legalize taxes already voted.

*Be it enacted by the Legislature of Alabama:*

Section 1. PROVISION FOR RE-VOTING TAXES.—In order that boards of education in counties in which the special three mill county tax and the special one mill county tax for school purposes, or either of these taxes expire before October 1, 1950, may be in better position to take advantage of Federal funds which have been or may be made available for the construction, addition to, alteration, repair, or renovation of needed school buildings, provision is hereby made for the legally qualified voters of those counties to re-vote such taxes under terms and conditions prescribed by law.

Section 2. ELECTION TO RE-LEVY TAX AUTHORIZED.—The court of county commissioners or court of like jurisdiction in any county within the State of Alabama is hereby authorized upon receipt of a properly signed petition and upon the request of the county board of education filed in accordance with the provisions of the school code, to order an election to determine whether or not a special county school tax of three mills and a special county school tax of one mill, or either of these taxes, shall be re-levied for public school purposes within the county, provided such tax or taxes have already expired or will expire prior to October 1, 1950.

Section 3. TERM OF EXTENSION OF TAXES WHICH MAY BE RE-VOTED.—In any county in which the special county school tax of three mills or the special county school tax of one mill, or either of these taxes is to be re-voted for school purposes in accordance with the provisions of this act, such taxes may not be extended beyond the tax year beginning October 1, 1965.

Section 4. ELECTIONS FOR RE-VOTING TAXES.—Elections for re-voting these taxes shall be called and held and the results certified in accordance with the provisions of the Alabama School Code of 1927.

Section 5. ELECTIONS FOR RE-VOTING TAXES ALREADY HELD MADE LEGAL.—In any county in which an election has already been held or ordered to be held for re-voting

its special county three mill and its special county one mill school taxes, or either of these taxes, the election is hereby recognized as legal, provided it was held or ordered to be held in accordance with the requirements of Section 1, 2, 3, and 4 above.

Section 6. All laws and parts of laws, general, special, or private, in conflict with the terms and provisions of this act are hereby repealed.

Section 7. **EFFECTIVE DATE.**—This act shall be effective and become operative immediately upon its passage and approval by the Governor.

Approved September 2, 1935.

No. 302)

(S. 327—Stephens.

### AN ACT

In the interest of economy in the operation of the public schools of the State of Alabama, to authorize county and city boards of education to take steps to refinance warrants or other obligations outstanding for school purposes carrying an interest rate in excess of four and one-half (4-1/2) per cent.

*Be it enacted by the Legislature of Alabama:*

Section 1. The board of education in any city or county in Alabama shall have the authority, in the interest of economy in the operation of the school system, to take whatever steps may be practicable to refinance unmatured warrants or other outstanding obligations pledging school funds.

Section 2. In any county or city where unmatured warrants or other obligations outstanding against school revenues carry an interest rate in excess of four and one-half (4 1-2) per cent, the board of education shall have the authority to take whatever steps may be practicable to refinance these obligations, if such refinancing can be accomplished at a rate of interest lower than the existing rate.

Section 3. All laws, general, specific, and private, in conflict with the provisions of this act are hereby repealed.

Section 4. This act shall take effect and become operative immediately upon its passage and approval by the Governor.

Approved September 2, 1935.

No. 303)

(S. 336—Riddle.

## AN ACT

To amend the Caption and Section 1, Section 2, Paragraph (d), Section 3, Section 6, Section 9, Section 11 and Section 16 of an Act entitled, "An Act to authorize the creation of the Rural Electrification Authority of Alabama for the purpose of promoting and encouraging the fullest possible use of electric energy in the State by making electric energy available to certain inhabitants of the State at the lowest cost consistent with sound economy and prudent management; authorizing the Authority to sell and distribute electric energy and to construct or otherwise acquire a system or systems for the generation, transmission and distribution of electric energy to carry out the purposes of this Act; providing for the rights, powers and duties of the Authority; authorizing and regulating the issuance of bonds by the Authority; and providing for the payment of such bonds and the rights of the holders thereof, approved February 7, 1935.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the title to an Act entitled, "An Act to authorize the creation of the Rural Electrification Authority of Alabama for the purpose of promoting and encouraging the fullest possible use of electric energy in the State by making electric energy available to certain inhabitants of the State at the lowest cost consistent with sound economy and prudent management; authorizing the Authority to sell and distribute electric energy and to construct or otherwise acquire a system or systems for the generation, transmission and distribution of electric energy to carry out the purposes of this Act; providing for the rights, powers and duties of the Authority; authorizing and regulating the issuance of bonds by the Authority; and providing for the payment of such bonds and the rights of the holders thereof," approved February 7, 1935, be amended so as to read as follows: "An Act to authorize the creation of the Rural Electrification Authority for the purpose of promoting and encouraging the fullest possible use of electric energy in the State by making electric energy available to certain inhabitants of the State at the lowest cost consistent with sound economy and prudent management; authorizing the Authority to sell and distribute electric energy and to construct or otherwise acquire a system or systems for the generation, transmission and distribution of electric energy to carry out the purposes of this Act; providing for the rights, powers and duties of the Authority; authorizing and regulating the issuance of bonds by the Authority; and providing for the payment of such bonds and the rights of the holders thereof."

Section 2. That Section 1 of the said Act be amended so as to read as follows: Section 1. **SHORT TITLE.** This Act may be known and referred to as the "Rural Electrification Authority Act."

Section 3. That Section 2 of said Act be amended so as to read as follows: Section 2. DEFINITION. The following terms, whenever used in this Act, shall have the following meanings, unless a different meaning clearly appears from the context: (a) "authority" shall mean the corporation which may be created under this Act. (b) "board" shall mean the board of directors of the authority. (c) "bonds" shall mean and include negotiable bonds, interim certificates or receipts, notes, debentures and all other evidences of indebtedness either issued or the payment thereof assumed by the Authority. (d) "acquire" shall mean and include construct, acquire by purchase, lease, devise, gift or the exercise of the right of eminent domain in manner now or hereafter provided by law for the exercise thereof. (e) "municipality" shall mean any county, city or town of this State. (f) "persons" or "inhabitant" shall mean and include natural persons, firms, associations, corporations, business trusts, partnerships and bodies politic. (g) "energy" shall mean and include any and all electric energy no matter how generated. (h) "system" shall mean and include any plant, works, system, facilities or properties, together with all parts thereof and appurtenances thereto, used or useful in connection with the generation, production, transmission or distribution of energy. (i) "law" shall mean any act or statute, general, special or local of this State. (j) "federal agency" shall mean and include the United States of America, the President of the United States of America, the Federal Emergency Administration of Public Works, and any and all other authorities, agencies, and instrumentalities of the United States of America, heretofore or hereafter created. (k) "improve" shall mean and include construct, reconstruct, improve, repair, extend, enlarge or alter. (l) "service" shall mean and include the transmission, sale or other disposition of energy at the lowest cost consistent with sound economy, public advantage and the prudent conduct of the business of the authority.

Section 4. Amend Section 3 of said Act so that the same shall read as follows: Section 3. RURAL ELECTRIFICATION AUTHORITY. An authority to be known as the Rural Electrification Authority may be created hereunder. Said authority shall be a public corporation in perpetuity under its corporate name, and shall under the name be a body politic and corporate, with power of perpetual succession.

Section 5. Amend Section 6 of said Act so that the same shall read as follows: Section 6. ORGANIZATION OF BOARD: OFFICERS. Promptly after their appointment the Board shall meet to organize. At such meeting the members shall choose from their number a president and a secretary. The president and secretary shall be elected annually. The Board may elect such other officers and appoint such agents and employees as it may deem

necessary and may delegate to one or more of its members, officers, agents or employees such powers and duties as it deems proper. The Board may delegate and appoint one of its members as active manager or vice-president in charge of operation, fix his salary and define his duties, the duties of such office to be in addition to his duties as a member of the Board. The Board may thereafter file with the Secretary of State a certificate showing the names and terms of office of the members of the Board and the members of the Board who have been chosen president and secretary respectively and attach thereto a copy of the by-laws of the authority as approved by the Board, and upon such certificate duly authenticated by the signatures of the three members of the Board being filed with the Secretary of State, the Rural Electrification Authority of Alabama shall be incorporated and vested with the powers, rights and franchises herein conferred.

Section 6. That Section 9 of said Act be amended so as to read as follows: Section 9. MEMBERS NOT TO HOLD STATE OFFICE. The members of the Board shall not hold any public office under the State.

Section 7. Further amend said Act so that Section 11 shall read as follows: Section 11. GENERAL GRANT OF POWERS. The Authority when incorporated shall be vested with all the powers necessary or requisite for the accomplishment of its corporate purpose and such other powers as are capable of being granted by the Legislature of the State of Alabama; and no enumeration of particular powers herein granted shall be construed to impair any general grant of power herein contained, nor to limit any such grant to a power or powers of the same class or classes as those so enumerated.

Section 8. Further amend said Act so that Section 16 shall read as follows: Section 16. RATES. The Authority shall not be operated for gain or profit. The Authority shall, however, prescribe and collect reasonable rates, fees or charges for the services, facilities and commodities made available by it, and shall revise such rates, fees or charges from time to time whenever necessary so that the Authority shall be and always remain self-supporting. The rates, fees or charges prescribed shall be such as will produce revenue at least sufficient (a) to pay when due all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor, and (b) to provide for all expenses of operation, maintenance or improvement of the system or systems acquired by the Authority, including reserves therefor.

Section 9. All laws and parts of laws in conflict with the provisions of this Act be and the same are hereby expressly repealed.

Approved September 2, 1935.

No. 304)

(H. J. R. 219—Toomer.

## HOUSE JOINT RESOLUTION

Expressing assent of the Legislature of the State of Alabama to the provisions and purpose of the Bankhead-Jones Act of June 29th, 1935, (Public—No. 182—74th Congress).

WHEREAS, There has been enacted by the Senate and House of Representatives of the United States of America in Congress assembled, An Act to provide for research into basic laws and principles relating to agriculture and to provide for the further development of cooperative agricultural extension work and the more complete endowment and support of land-grant colleges, approved June 29, 1935, (Public—No. 182—74th Congress), and

WHEREAS, the Provisions of the Act and the purpose of the grants of money authorized by the Act are made subject to the legislative assent of the several states and territories, Therefore,

BE IT RESOLVED by the House of Representatives of the Legislature of the State of Alabama, the Senate concurring, that the assent of the Legislature of the State of Alabama, required by the said Act, be and the same is hereby given.

Approved September 2, 1935.

No. 305)

(H. 178—Chichester.

## AN ACT

To vest in the City of Birmingham, a municipal corporation the title to the East half of block 44, according to the Elyton Land Company's survey, for the purpose of a public municipal park.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the title to the East half of block numbered Forty-Four according to map and survey of the Elyton Land Company, said property being situated in the City of Birmingham, Jefferson County, Alabama, and being bounded on the East by 17th Street, North, on the South by 5th Avenue, North: on the west by a line parallel to and 200 feet west of the West line of 17th Street, North: and on the North by 6th Avenue, be vested in the City of Birmingham, a municipal corporation, to be held by said municipal corporation for the purpose of a public municipal park.

Section 2. This Act shall become a law upon its approval by the Governor.

Approved September 3, 1935.



No. 306)

(H. 242—Harrison.

## AN ACT

To amend Sections 6363 and 6364 of the Code of Alabama of 1923, relating to unclaimed dividends in Liquidated State Banks, and also to provide for the disposition of such funds now in the Treasury.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 6363 of the Code of Alabama of 1923, be amended to read as follows: "Section 6363. The Superintendent of banks shall certify to the Treasurer of the State a complete list of funds remaining in his hands uncalled for, which have been left in his hands in his official capacity, in trust for depositors in and creditors of any liquidated bank, from which they were received after they have been held by him for three years from the date of the final liquidation of the institution. Along with his certificate, he shall transmit to the treasurer the funds, with accumulated interest thereon, which he has so held in trust for three years. A copy of such certificate shall also be filed with the State Comptroller who shall make a record thereof and shall certify the monies to the Treasurer to the credit of the Public School Fund."

Section 2. That Section 6364 of the Code of Alabama of 1923, be amended to read as follows: "Section 6364. Any depositor or creditor of a liquidated bank who has not been paid the amount standing to his credit as thus certified to the State Treasurer, may apply to the Superintendent of Banks for the amount due him, after it has been certified into the treasury of the State. The depositor or creditor shall make an affidavit and offer proof of his identity and of the amount due him by the liquidated bank. When satisfied as to the correctness of the claim and of the identity of the person, the superintendent of banks shall approve the claim and forward to the State Comptroller, who shall audit the same and if found correct, draw his warrant payable from the Public School Fund in favor of the claimant for the amount shown by the records to be due such depositor or creditor, which shall be paid by the treasurer from the current revenues of the Public School Fund."

Section 3. That the monies heretofore received into the Treasury and now to the credit of the Unclaimed Dividends in Liquidated State Banks Fund are hereby appropriated to and made a part of the Public School Fund. The State Comptroller is directed to transfer the funds in accordance with this Act.

Section 4. That all laws and parts of laws in conflict with this Act be and the same are hereby repealed.

Section 5. This Act shall become effective upon its passage and approval by the Governor.

Approved September 2, 1935.

No. 307

(H. 243—Harrison.)

## AN ACT

To appropriate the monies now in the Treasury to the credit of the Two and Three Per-Cent Fund, and to provide for the disposition of future receipts from the Federal Government.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the monies heretofore received from the Federal Government, now in the State Treasury to the credit of the Two and Three Per-Cent Fund, are hereby appropriated to and made a part of the Public Road and Bridge Fund to be used for construction and maintenance purposes. The State Comptroller is directed to transfer the funds in accordance with this Act.

Section 2. That any sums of money that may hereafter be received from the Federal Government on account of the Two and Three Per-Cent Fund are hereby appropriated to the Public Road and Bridge Fund to be used as hereinabove provided.

Section 3. That all laws and parts of laws in conflict with this Act be and the same are hereby repealed.

Section 4. This Act shall take effect upon approval by the Governor.

Approved September 2, 1935.

No. 308)

(H. 247—Harrison.)

## AN ACT

To appropriate the Monies now in the Treasury to the Credit of the Federal Water Power Act Fund, and to provide for the disposition of future receipts from the Federal Government.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the monies heretofore received from the Federal Government, now in the State Treasury to the credit of the Federal Water Power Act Fund, are hereby appropriated to and made a part of the Public School Fund. The State Comptroller is directed to transfer the funds in accordance with this Act.

Section 2. That any Sums of Money that may hereafter be received from the Federal Government on account of the Federal Water Power Act are hereby appropriated to the Public School Fund.

Section 3. That all laws and parts of laws in conflict with this Act be and the same are hereby repealed.

Section 4. This Act shall take effect upon approval by the Governor.

Approved September 2, 1935.

No. 309)

(H. 248—Harrison.)

## AN ACT

In relation to the educational system of Alabama; to make annual appropriations and provide funds for the support, maintenance and development of public education in Alabama, for the fiscal years ending September 30, 1936, 1937, 1938 and 1939, including all schools, agencies, services and institutions under the general or direct control or subject to the rules and regulations of the State Board of Education, the Alabama School of Trades & Industries, the Alabama College, the Alabama Polytechnic Institute and the University of Alabama.

*Be it enacted by the Legislature of Alabama:*

Section 1. There is hereby appropriated annually beginning October 1, 1935, to the State Board of Education for the maintenance and support of the schools, agencies, services and institutions under its control the following amounts, to-wit: A. SECONDARY AGRICULTURAL SCHOOLS AND DEMONSTRATION FARMS: For the Secondary Agricultural School Demonstration Farms, \$13,000.00. B. NORMAL SCHOOLS AND TEACHERS COLLEGES: 1. State Teachers College, Florence, \$67,500.00; 2. State Teachers College, Jacksonville, \$67,500.00; 3. State Teachers College, Livingston, \$67,500.00; 4. State Teachers College, Troy, \$67,500.00; 5. State Teachers College, Montgomery, \$67,500.00; 6. Daphne Normal School, Daphne, \$10,000.00; 7. Agricultural and Mechanical Institute, Normal, \$17,500.00—\$365,000.00; C. TRADE SCHOOLS: The Alabama School of Trades and Industries, Gadsden, \$35,000.00. D. SPECIAL AGENCIES: 1. For Vocational Educational, \$253,404.65; 2. For Physical Restoration of Crippled Children, \$40,000.00; 3. For Civilian Rehabilitation, \$43,278.88; 4. For Service for the Blind, \$4,000.00—\$340,683.53; 5. For the Illiteracy Fund, \$12,500.00. E. TEACHER TRAINING: 1. For Teacher Training Equilization Fund, \$140,000.00.

Section 2. HIGHER INSTITUTIONS OF LEARNING. There is hereby appropriated (1) to the Alabama College, (2) to the University of Alabama, and (3) to the Alabama Polytechnic Institute, the following sums, (to be devoted to the same purposes and in the same proportions as provided in existing statutes.): 1. Alabama College, \$205,119.98. 2. University of Alabama, \$393,899.05. 3. Alabama Polytechnic Institute, \$332,399.05.

Section 3. That the State Superintendent of Education shall make requisition on the State Comptroller in favor of proper beneficiary in accordance with the law and the rules and regulations governing the expenditure or disbursement of any and all funds provided for in this Act, whereupon the Comptroller upon approval by the Governor shall issue his warrant therefor; provided that all appropriations and moneys made available to the

Alabama College, the Alabama Polytechnic Institute and the University of Alabama by the provisions of this Act shall be paid upon requisition upon the Comptroller made in the manner as now provided by law.

Section 4. All funds appropriated by this Act to any school, institution, agency, cause or fund shall be devoted to the same purposes and in the same proportions as provided in existing statutes and shall be appropriated and expended in each instance as now or hereafter may be provided by law governing or relating to the apportionments and expenditures of the same.

Section 5. That the appropriations herein made are payable from the General Fund and shall be subject to the terms, conditions, provisions and limitations of the Budget and Financial Control Act.

Section 6. That if any section, clause, provision or portion of this Act or all or any portion of any appropriation herein made is held to be unconstitutional or invalid, it shall not affect any other section, clause, provision or portion of this Act, or any other appropriation or portion thereof hereby made, not in and of itself unconstitutional or invalid.

Section 7. That all laws, and parts of laws, general, special or private, in conflict with the terms and provisions of this Act be, and the same are, hereby repealed.

Approved September 2, 1935.

No. 311)

(H. 325—Harrison.

### AN ACT

To create a Sinking Fund to retire the Renewal Class A, the Renewal Class C, and the Funding Bonds of the State of Alabama; to appropriate and transfer certain funds thereto and to create a Commission to be known as the Sinking Fund Commission; to administer the same and to define the powers and duties of said Commission and prescribe the functions thereof.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the appropriation made in the General Appropriation Act of 1935, in Section XVI, for Sinking Fund for Class A Renewal, Class C Renewal, and Funding Bonds, shall be set aside in a fund to be known as the "Sinking Fund for Retiring Old Bonded Debt."

Section 2. That any unexpended balance of the appropriation for interest on Harbor Improvement and Warrant Refunding Bonds, included in Section XIV of the General Appropriation Act of 1935, shall be transferred to the Sinking Fund for Retiring Old Bonded Debt.

Section 3. Said Fund shall be set up by the State Comptroller and the funds therefor transferred thereto as available. The funds therein may be used from time to time by Sinking Fund Commis-

sion for the purpose of purchasing and holding in trust in said Fund bonds of the State of Alabama.

Section 4. Said bonds so purchased and held in trust may from time to time by the Sinking Fund Commission be sold, if it is deemed for the best interest of the Sinking Fund that said transactions be had, and the proceeds held or re-invested from time to time, provided always said fund be kept intact and be used at the maturity of the said bonds for the retirement of the same. Bonds in said Sinking Fund of the series hereinabove mentioned, on Maturity dates, shall be cancelled and destroyed as other bond obligations of the State are handled when paid at maturity and as prescribed in the Act authorizing such bonds.

Section 5. The custody, investment, handling and control of the said Sinking Fund created in Section 1 hereof shall be vested in a Commission which is hereby created which shall be known as the Sinking Fund Commission and which shall consist of persons at the time being, and who shall from time to time be, (a) the Governor of Alabama, who shall be Chairman of the said Commission, (b) the Attorney General of Alabama, (c) the State Treasurer of Alabama, and (d) the State Comptroller of Alabama, who shall be Secretary of the Commission. No member of the said Commission shall receive any compensation for the services in respect thereto.

Section 6. It shall be the duty of the Commission to take charge of, keep safely, and handle as herein provided the funds coming into said Sinking Fund and to see that the same are applied in satisfaction of the bonds against which said Sinking Fund is created. Bonds, securities or other personal property coming into the possession of the Commission shall be kept in a burglar proof, safety deposit vault, to gain access to which it shall require the presence and signature of at least two members of the said Commission.

Section 7. The secretary of the Commission shall keep a record of the Minutes of the Commission and all investments, changes in investments and other transactions of the Commission shall be made a matter of record on the Minutes of the Commission, and the Commission shall make an annual report which shall be published as a part of the annual report of the State Comptroller. The assets, bonds and securities of the Commission shall be listed in such annual report and the Governor shall personally check the property on hand to see that the same conforms with the annual report, and he shall certify in the annual report that he has done so.

Section 8. That all laws and parts of laws in conflict herewith are hereby repealed.

Section 9. This Act shall take effect upon its passage and approval by the Governor.

Approved September 2, 1935.

No. 315)

(H. 806—Almon.

## AN ACT

To appropriate the sum of One Hundred Thousand Dollars for the relief of the City of Decatur, Morgan County, Alabama.

WHEREAS, the minutes of the Alabama State Highway Commission of January the 19th, 1925, in part read as follows:

“WHEREAS, many citizens of North Alabama have petitioned this Commission to construct a bridge over and across the Tennessee River at or near the municipalities of Decatur and Albany, Alabama, and

WHEREAS, this Commission recognizes that the construction of a standard type bridge at this strategic point is of state wide importance, and is requisite to the consummation of the general highway system visioned by the Commission, the Legislature, and the citizens of Alabama, but at this time this Commission is without adequate funds with which to finance the building of that type of bridge needed at this point and to carry on the other road building needed in other parts of the state; and,

WHEREAS, responsible citizens of North Alabama have represented to this Commission that they will undertake to raise the sum of one hundred thousand dollars, supplementing the funds under the supervision of this Commission available for the building of this bridge and to place the said one hundred thousand dollars in the State Treasury of the State of Alabama, to be employed by this Commission in and about the construction and completion of said bridge.

NOW THEREFORE, be and it is hereby ordered by the Highway Commission of the State of Alabama, that upon and when there is placed with or under control of the State Treasurer of Alabama aforesaid, and this Commission is so advised by the State Treasurer, all proper and needful orders and preliminary proceedings for the construction of a good substantial, and adequate bridge of standard type and design, twenty feet wide, across the Tennessee River, as aforesaid, are to be immediately made and instituted and said bridge built with all reasonable dispatch.

BE IT FURTHER RESOLVED that the Highway Commission of Alabama feels that private citizens of the state could not be called upon to appropriate money in addition to taxes already paid by such private citizens for the construction of roads and bridges to be used by the general public and the Highway Commission of the state feels that in justice to such private citizens who may have contributed or may hereafter contribute monies to the State for the building of bridges across the navigable rivers in Alabama, that should the State come into possession of other monies in the future for bridge and road construction that funds contributed by these private citizens or by municipalities or by counties should be refunded to them out of monies appropriated by the state for bridge and road construction.”

AND WHEREAS, the City of Albany, Alabama, on the 14th day of May, 1925, issued its general obligation bonds known as “Bridge Gold Bonds” in the sum of Fifty Thousand dollars (\$50,000).

AND WHEREAS, the City of Decatur, Alabama, on the 14th day of May, 1925, issued its general obligation bonds known as the “Bridge Gold Bonds” in the sum of Fifty Thousand dollars (\$50,000).

AND WHEREAS, the proceeds from each of the above bonds issued amounting to the sum of One Hundred Thousand Dollars (\$100,000.00) was placed at the disposal of the Alabama State Highway Commission and used by said Commission in the construction of a bridge over and across the Tennessee River at or near Decatur, Alabama.

AND WHEREAS, by a local act of Alabama, of February the 4th, 1927, the cities of Decatur, Alabama, and Albany, Alabama, were merged under the name of Decatur, Alabama: Now Therefore,

*Be it enacted by the Legislature of Alabama:*

Section 1. That the Comptroller of the State of Alabama, upon approval of this Act draw his warrant in favor of the City of Decatur, Alabama, for the sum of One Hundred Thousand Dollars (\$100,000.00) payable out of the public road and bridge funds of the Highway Department of the State of Alabama to reimburse the City of Decatur, Alabama, for that amount which was appropriated by the City of Decatur, Alabama, to the Alabama State Highway Commission.

Section 2. That there is hereby appropriated the sum of One Hundred Thousand Dollars (\$100,000.00) payable out of the public road and bridge funds of the Highway Department of the State of Alabama to pay said warrant.

Section 3. This Act shall become of full force and effect, and operative after October 1st, 1935, and the money hereby appropriated shall be paid out of the public road and Bridge funds of the Highway Department available for the year 1936.

Approved September 2, 1935.

No. 316)

(H. 811—Sanderson.

### AN ACT

Declaring A State And National Emergency To Exist Affecting The Service Trades Within The State of Alabama, Declaring The Necessity For Ordinances Providing For Fair Competition Among Service Trade; Declaring This Act An Emergency Measure; Authorizing The Governing Bodies Of All Cities Of This State Whose Population Is Not Less Than 60,000 Nor More Than 250,000 According To The Last Or Any Subsequent Federal Census To Enact Or Repeal Such Ordinances Providing For Fair Competition Among Those Trades Wherein Services Are Rendered To The Public Without The Sale Of Merchandise As Such Except As A Mere Incident To Such Service; Providing For The Application To The Governing Bodies Of Such Cities For The Establishment Of Ordinances Providing For Fair Competition, And Providing A Penalty For Violation Of Provision Of Ordinances So Adopted.

*Be it Enacted by the Legislature of Alabama:*

Section 1. A state and national emergency productive of widespread un-employment and disorganization of trade which burdens commerce and affects the public welfare, is hereby declared to exist, causing an emergency which injuriously affects the morale and standard of living and threatens to affect the industrial peace and safety and health of the people of the State of Alabama. Among the trade particularly affected of those which services are rendered

upon a person or persons or their clothing or apparels without necessarily involving the sale of merchandise. In such trades there is ruinous price-cutting, widespread unemployment and economic distress, and for the purpose of ameliorating such conditions, it is necessary and desirable to authorize the adoption of ordinances providing for fair competition applicable to such trades in various cities and towns of this state, as provided by this Act.

Section 2. This Act applies only to those trades where personal services are rendered upon a person or persons or their clothing or apparels without the sale of merchandise as such, which are herein referred to as service trade. The fact that title to personal property may pass as an incident to rendering such service or services, does not prevent the trade in which this happens from being a service trade provided however that no provision of this Act shall apply to any trade school.

Section 3. In all cities of this State whose population is not less than 60,000 nor more than 250,000 according to the last or any subsequent Federal Census, the owners, operators, or managers of not less than 60 per cent of the business establishment in any such service trade in any such city or town may apply to the governing body of such city or town for the enactment of an ordinance providing for fair competition for such trade within such city or town. The councils or city commission or like governing body of such cities and towns shall have jurisdiction within such cities and towns to carry out within their respective jurisdiction the provisions of this Act.

Section 4. The violation of any provision of any ordinance adopted under the provision of this act shall constitute a misdemeanor. Each and every day's continuance of such violation shall constitute a separate offense, and each offense is punishable by a fine of not more than one hundred dollars or imprisonment for not more than thirty days.

Section 5. The application for an ordinance providing for fair competition shall state the number of business establishments in such city or town engaged in the trade petitioning for such ordinance, and signature of only one person respectively signing on behalf of a business establishment, shall be counted in determining the percentage of establishment making application. The application shall set forth the provision of the requested ordinance. Such ordinance may contain any other fair trade practice provisions which are not unlawful.

Section 6. At any meeting after receiving such application, the governing body of such city or town may reject or approve, in whole or in part, the application for such ordinance. The rejection of any application shall not prejudice the filing of a new application. The governing body of such city or town, may enact in whole or in part, the provisions of such ordinance, and thereafter



such adopted ordinance shall regulate as to matters contained therein the conduct of every person engaged in such service trade within its jurisdiction. The governing body of such city or town may repeal in whole or in part, such ordinance as provided for in this Section.

Section 7. If any section, sentence, clause or part of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Act.

Section 8. This Act is hereby declared to be an emergency measure necessary for the immediate preservation or public health, peace, safety and economic security within the state.

Section 9. All laws or parts of laws in conflict herewith be and the same are hereby repealed.

Section 10. This Act shall become effective immediately upon its approval by the Governor or its becoming a Law.

Approved August 27, 1935.

No. 322)

(H. 861—Coleman.

## AN ACT

To make appropriations to the Alabama Agricultural Experiment Station at Auburn; to the branch agricultural experiment stations located at Belle Mina in Limestone County, at Crossville in DeKalb County, at Marion Junction in Dallas County, at Headland in Henry County, and at Fairhope in Baldwin County, to the experiment fields located at various points in Alabama; to provide for the purchase of necessary land; to provide for the administration, supervision and direction of the research work carried on by the above agencies; to provide for the purchase of equipment, supplies, and for other necessary expenses involved in the conduct of agricultural researches and experiments on the main station at Auburn, on the branch stations, on the experiment fields, and in cooperation with farmers, and to provide how and from what sources said appropriations shall be derived, the distribution thereof, and the manner in which same shall be paid.

### *Be it enacted by the Legislature of Alabama:*

Section 1. That the funds herein provided shall be used for the support of researches, experiments, and investigations bearing upon and relating to the production, marketing, manufacturing, use and distribution of agricultural crops and products; for the production, marketing, and curing of all kinds of livestock and livestock products that may be sold from or consumed on the farms of Alabama; for the production, culture, and use of pasture plants; for the establishment, care, use, and management of pastures; for the testing of all kinds of hay, feed, and forage crops, including those that may be used for lawns and other sod crop purposes; for the testing of varieties of crops, including soil adaptation and improvement; for the testing of various fertilizers

and fertilizer materials on the various soils and for various crops; for the production, marketing, storage, and curing of fruit, nut, and vegetable crops; for the study of plant and animal diseases, and insect pests; for researches and experiments dealing with forest production, management and use; for researches dealing with soil erosion and problems arising from the waste of land due to soil erosion; for researches to discover new uses of lands; for the provision of necessary land, buildings, fencing, livestock, and other physical equipment needed for the research work herein provided for; for researches in game and fish production; provided, however, that any researches in game and fish production shall be in cooperation with or upon the advice of the Commissioner of Game and Fisheries, so that there may be complete coordination between the work of the Alabama Agricultural Experiment Station and that of the State Department of Game and Fisheries; as future changing agricultural conditions may demand it, for other similar important agricultural and economic problems having for their object the development of a more permanent, more profitable and diversified agriculture; and for the printing of the necessary bulletins, circulars, etc., in order that the citizens of Alabama may be acquainted with the results of said researches.

Section 2. That there is hereby appropriated out of the Treasury of the State to the Alabama Agricultural Experiment Station of the Alabama Polytechnic Institute for the support of the work of the main station at Auburn, and for cooperative experiments with farmers, for the fiscal year beginning October 1, 1935, and for each and every year thereafter, the sum of \$71,000.

Section 3. That there is hereby appropriated out of the Treasury of the State to the Tennessee Valley Branch Station located at Belle Mina in Limestone County for the fiscal year beginning October 1, 1935, and for each and every year thereafter, the sum of \$12,500.

Section 4. That there is hereby appropriated out of the Treasury of the State to the Sand Mountain Branch Station located at Crossville in DeKalb County for the fiscal year beginning October 1, 1935, and for each and every year thereafter, the sum of \$12,500.

Section 5. That there is hereby appropriated out of the Treasury of the State to the Black Belt Branch Station located at Marion Junction in Dallas County for the fiscal year beginning October 1, 1935, and for each and every year thereafter, the sum of \$14,900.

Section 6. That there is hereby appropriated out of the Treasury of the State to the Wiregrass Branch Station located at Headland in Henry County for the fiscal year beginning October 1, 1935, and for each and every year thereafter, the sum of \$12,500.

Section 7. That there is hereby appropriated out of the Treasury of the State to the Gulf Coast Branch Station located at Fairhope, in Baldwin County, for the fiscal year beginning October 1,

1935, and for each and every year thereafter, the sum of \$14,900.

Section 8. That there is hereby appropriated out of the Treasury of the State for the support of researches and experiments on experiment fields for the fiscal year beginning October 1, 1935, and for each and every year thereafter, the sum of \$24,000.

Section 8-½. That for the purposes set out in Section 1 hereof, there is hereby appropriated out of the Agricultural Fund of the Department of Agriculture and Industries, to the Alabama Agricultural Experiment Station of the Alabama Polytechnic Institute, for use at the five Branch Agricultural Experiment Stations and Experimental Fields, the sum of \$100,000.00; said funds to be paid out of the Agricultural Fund upon the requisition of the Director of the Alabama Agricultural Experiment Stations, with the approval of the Commissioner of Agriculture and Industries.

Section 9. That all research work and experiments contemplated by the spirit and purpose of this Act shall be carried out under the supervision of the Director of the Agricultural Experiment Station of the Alabama Polytechnic Institute, who shall make a complete report to the President of the Alabama Polytechnic Institute at the end of each fiscal year.

Section 10. That all laws, or parts of laws, general, or special, in conflict with the terms and provisions of this Act, be and the same are, hereby repealed.

Approved September 2, 1935.

No. 323)

(H. 862—Coleman.

## AN ACT

To provide for Extension Work in agriculture and home economics by giving instructions to men, women and young people in the several counties in Alabama, by continuing and improving farm and home demonstration work, by providing for the training of men and women leaders, by organizing groups of farm people, including men, women, boys and girls, into clubs for the improvement of agriculture and farm home life, and by conducting Extension Work through other means, all with the view of making farm life more profitable and attractive; and to aid in securing for Alabama the full amounts of all Federal funds conditionally appropriated to Alabama by the Congress of the United States under an Act approved May 8th, 1914, and generally known as the Smith-Lever Act for Extension work in agriculture and home economics, and other related and supplementary acts; and to make appropriations for these purposes.

*Be it enacted by the Legislature of Alabama:*

Section I. That in order to aid in diffusing among the people of Alabama in the several counties useful and practical information on subjects relating to agriculture and home economics; to provide for the continuance and improvement of farm and home demonstration work, to provide for the training of men and women

leaders, to provide for organizing clubs of farm people, including men, women, boys and girls, for the improvement of agriculture and farm home life; to promote the welfare of the rural districts by other forms of extension work in Agriculture and Home Economics, and to aid in securing for expenditure in Alabama the full amounts of Federal funds appropriated conditionally to Alabama by the Congress of the United States, under an Act approved May 8, 1914, and generally known as the Smith-Lever Act for Extension Work in agriculture and home economics and other supplementary and related acts for Extension Work in agriculture and home economics, there is hereby appropriated to the Alabama Polytechnic Institute out of the Treasury of the State of Alabama for the year beginning October 1st, 1935, and for each and every year thereafter, the sum of two hundred and twenty thousand dollars (\$220,000.00).

Section II. That the funds appropriated by this Act shall be expended under the general direction of the Board of Trustees of the Alabama Polytechnic Institute, through its Extension Service, for paying any and all bills and other items in carrying out the aims and purposes of this act and in such manner as to aid in securing for Extension Work in Alabama in any year the maximum amounts of all Federal funds conditionally appropriated for that year by an Act of the Congress of the United States approved May 8, 1914, and generally known as the Smith-Lever Act for Extension work in agriculture and home economics, and other Federal Acts supplementary and related thereto.

Section III. That the funds appropriated by this Act shall be paid to the Treasurer of the Alabama Polytechnic Institute upon requisition of the State Comptroller.

Section IV. That all laws and parts of laws in conflict with this Act are hereby repealed.

Approved September 2, 1935.

No. 326)

(H. 945—Harrison.

### AN ACT

In relation to the public school system of Alabama: To make appropriations and provide funds for the support, maintenance, and development of the public school system of the State.

*Be it enacted by the Legislature of Alabama:*

Section 1. PUBLIC SCHOOL FUND.—That there is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated for the fiscal years ending September 30, 1936, September 30, 1937, September 30, 1938, and September 30, 1939, the amounts hereinafter set forth, which together shall comprise the Public School Fund to be used for the support and main-

tenance of the public schools, and this fund shall be apportioned in accordance with the provisions of the Constitution and of the laws providing for such apportionment: (1) Interest on 16th Section Lands, \$138,248.39. (2) Interest on School Indemnity Lands, \$18,433.44. (3) Interest on valueless 16th Section Lands, \$5,825.47. (4) Interest on Surplus Revenue, \$26,763.47. (5) Interest on James Wallace Fund, \$275.25. (6) Special Appropriations for Public Schools (Acts 1911), \$500,000.00. (7) All funds derived from the levy of the special annual tax of thirty cents on each one hundred dollars of taxable property in this State for the support and maintenance of the public schools, and from other funds mentioned and enumerated in Sections 257, 258, and 260 of the Constitution of 1901; provided that not more than four per cent of all moneys appropriated in this section shall be used or expended otherwise than for the payment of teachers employed and directly engaged in teaching in the schools.

Section 2. REVOLVINGG FUND.—That there is hereby appropriated to the State Board of Education out of any funds in the treasury not otherwise appropriated for the fiscal years ending September 30, 1936, September 30, 1937, September 30, 1938, and September 30, 1939, the sum of \$100,000.00 to be known as the Revolving Fund and to be expended in relieving emergency conditions that arise in connection with the operation of the public schools or in otherwise aiding the public schools, and to be expended in accordance with the provisions of the statutes relating to the expenditure of such funds.

Section 3. MINIMUM PROGRAM FUND.—That in addition to all other moneys appropriated for the public elementary and high schools of the State, there is hereby appropriated to the State Board of Education out of any funds in the treasury not otherwise appropriated for the fiscal years ending September 30, 1936, September 30, 1937, September 30, 1938, and September 30, 1939, the following sums which in accordance with the statutes and the regulations of the State Board of Education relating to the expenditures of such fund, shall be used for providing a minimum term and for the equalization of educational opportunity in the public schools of the State: a. The following funds and appropriations are hereby consolidated with and made a part of the minimum program fund and henceforth shall be included as a part of the minimum program appropriation: (1) The appropriation previously known as the Equalization Fund, amounting to \$900,000 annually. (2) The appropriation previously known as the Attendance Fund, amounting to \$850,000 annually. (3) The appropriation previously known as the High School Education Fund, amounting to \$411,000 annually. (4) The appropriation previously known as the County High School Fund, amounting to \$301,500 annually. (5) The appropriation previously known as the Bonus

School Fund, amounting to \$268,000 annually. (6) The appropriation previously known as the Rural Schoolhouse Fund, amounting to \$134,000 annually. (7) The appropriation previously known as the Rural School Library Fund, amounting to \$17,500 annually. b. An additional appropriation amounting to \$3,160,516. c. Any other appropriations or funds which may be designated by the Legislature as a part of the minimum program fund.

**Section 4. STATE SECONDARY AGRICULTURAL SCHOOL FUND.**—That there is hereby appropriated to the State Board of Education for the support and maintenance of the eleven State secondary agricultural schools, as established by law, out of any funds in the Treasury not otherwise appropriated, for the fiscal years ending September 30, 1936, September 30, 1937, September 30, 1938, and September 30, 1939, the sum of \$66,000 for the eleven State secondary agricultural schools, each school to receive an annual appropriation of \$2,000, the balance of that fund to be divided among the eleven schools on the basis of the average daily attendance of the senior high school pupils for the previous year; provided that in the event any agricultural school is transferred by the State Board of Education to any county board of education or to any city board of education to be administered as a part of the local county or city school system, the amount appropriated for the support of such school shall be paid to the custodian of school funds of the county or city in which such school is located, to be administered by the board for the support and maintenance of that school.

**Section 5.** That the appropriation provided in Section 1 of this Act shall be payable out of funds set aside by the Constitution for the payment of such appropriations, or where such funds are not set aside by the Constitution shall be payable from the General Fund of the State; that the several appropriations herein provided in Sections 2, 3, and 4 shall be payable out of the Alabama Special Educational Trust Fund, created and set apart for educational purposes by Section 2 of the General Revenue Bill of 1927, and in the event that such trust fund is insufficient to cover appropriations in Sections 2, 3, and 4 then the balance of the same shall be payable out of any other funds in the treasury not otherwise appropriated.

**Section 6.** The appropriations herein made are subject to the terms, conditions, provisions, and limitations of the State Budget and Financial Control Act.

**Section 7.** All laws and all parts of laws, general, special or private, in conflict with the terms and provisions of this Act be and the same are hereby repealed.

**Section 8.** If any section, clause, provisions, or portions of this Act or any portion of any appropriation herein made is held to be unconstitutional or invalid, it shall not affect any other section,

clause, provision or portion of this act, or any other appropriation or portion thereof hereby made, not in and of itself unconstitutional or invalid.

Approved September 2, 1935.

No. 327)

### AN ACT

(H. 946—Harrison.

In relation to Tuskegee Institute: To make appropriation and provide funds to help in the support, maintenance, and development of Tuskegee Institute.

*Be it enacted by the Legislature of Alabama:*

Sec. 1. That there is hereby appropriated out of any moneys in the State Treasury not otherwise appropriated for each of the fiscal years ending September 30, 1936; September 30, 1937; September 30, 1938; and September 30, 1939, the amount of five thousand (\$5,000) dollars which shall be known as the Tuskegee Maintenance Fund appropriated as evidence of the State's faith in and good will for Tuskegee Institute in its efforts to build a better educational institution for the development of the Negro Youth of the South.

Sec. 2. This money shall be paid upon requisition, drawn by the State Board of Education on the State Comptroller, who shall issue his warrant for same.

Approved September 2, 1935.

No. 328)

### AN ACT

(S. 388—Swift.

To extend the time in which tax collectors of the several counties of Alabama may file their official bonds with the Comptroller, so that they may be filed on or before the 15th day of September next after their election; and to repeal all laws in conflict herewith.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That the time within which the tax collectors of the several counties of Alabama may file their official bonds in the office of the Comptroller be and the same hereby is extended so that said bonds may be thus filed on or before the 15th day of September next after their election. The provisions of this Act shall apply to such tax collectors who were elected during the year 1934 and subsequent thereto.

Section 2. All laws and parts of laws in conflict with this act are hereby repealed.

Section 3. This act shall be effective immediately upon its approval by the Governor.

Approved August 28, 1935.

No. 329)

(S. 373—Starnes.

## AN ACT

To permit the playing of tennis, golf, baseball and operating of moving picture shows on Sunday, whether admission is charged thereto or not, in cities of the State which now have or may hereafter have a population of not less than Twenty-Four Thousand inhabitants nor more than Sixty Thousand inhabitants, according to the last or any subsequent Federal Census and within the police jurisdiction thereof; to provide that the governing body of any such city may by ordinance prohibit any or all of the acts herein named and must upon the passage of such ordinance provide that permitting or prohibiting thereof be submitted at the next election to be held in such city, and to provide for holding of other and subsequent elections on such acts and for cost thereof.

*Be it Enacted by the Legislature of Alabama:*

Section 1. It shall be lawful in cities whose population is not less than Twenty Four Thousand inhabitants nor more than Sixty Thousand inhabitants, according to the last or any subsequent Federal Census and within the police jurisdiction thereof, to engage in the playing of tennis, golf, baseball and in operating moving picture shows on Sunday whether admission is charged or not.

Section 2. In any such city, the acts or any of them herein referred to may be prohibited by an ordinance passed by the governing body of such city. The governing body of such city must as a part of such ordinance provide that there shall be submitted to the qualified electors of such city at the next election held for any purpose, primary, special or general on a special ballot, separate questions as to whether or not the Act or Acts so prohibited shall be permitted or prohibited. If a majority of the qualified electors participating in such election shall vote in favor of permitting any one or all of the acts prohibited by such ordinance, such ordinance as to such act or acts shall thereafter be of no force or effect and such acts shall be lawful in such city and within the police jurisdiction thereof.

Section 3. After any election held under the provisions of Section 2 of this Act, the governing body of any such city may by ordinance provide at the next election held in such city for any purpose, or for a special election for the submission on a special ballot to the qualified electors of such city the question or questions as to whether any act or acts which a majority of the qualified electors of such city participating therein at any election had voted in favor of prohibiting, may by ordinance declared to be lawful. If a majority of the qualified electors participating in such election shall vote in favor of permitting any of the acts, herein referred to, on Sunday the governing body of such city must so provide by ordinance.

Section 4. The cost of ballots, and all of special elections held hereunder must be paid by the City.

Approved September 2, 1935.



No. 330)

(S. 392—Riddle.

## AN ACT

To repeal an Act entitled, "An Act to define sedition and prescribe the punishment therefor", which became a law under the Constitution of Alabama on July 31, 1935.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That An Act entitled, "An Act to define sedition and prescribe the punishment therefor", which became a law under the Constitution of Alabama on July 31, 1935, be and the same is hereby repealed.

Section 2. That all laws and parts of laws in conflict herewith be and the same are hereby expressly repealed.

Approved August 27, 1935.

No. 331)

(H. 545—Wallace.

## AN ACT

To provide for the public safety; to regulate the operation of motor vehicles on the public highways; to provide for the registration and licensing of drivers or operators of motor vehicles and to fix the fees therefor. To authorize the State Highway Commission, with the approval of the Governor, to establish and promulgate reasonable rules and regulations concerning the operation of motor vehicles; to provide punishment and penalties for the violation of the provisions of this Act and of the rules and regulations authorized hereby; to provide for the suspension and revocation of drivers' licenses issued; to authorize the appointment or employment of the necessary officers and agents, and the purchase of the necessary equipment to make the provisions hereof effective; and to provide for the compensation of the officers and agents so employed.

*Be it enacted by the Legislature of Alabama:*

Section 1. That every person, except those hereinbelow exempted, before operating or driving any motor vehicle upon a public highway in this State, shall procure a driver's license. The first license shall be obtained between October 1, 1935, and November 15, 1935, and shall expire September 30, 1936, and a like license or renewal thereof shall be obtained annually thereafter.

Section 2. Such person shall apply under oath to the Probate Judge of the county of his residence for said driver's license or a renewal thereof, upon a form to be provided by the State Highway Department. Such applicant shall state thereon whether or not he is the owner of a motor vehicle for the operation of which the license is applied for, and if so, give a full description thereof; and shall state his race, age, height, weight, physical defects, if any, and such other information as may be required. If the owner of the vehicle, the applicant, shall pay to the Probate Judge, at the

time of filing his application, a fee of fifty cents. If not the owner of a motor vehicle for the operation of which the license is sought, the applicant shall pay to the Probate Judge at the time of filing his application a fee of fifty cents if the application is for a license to drive a motor truck, motor bus or like motor vehicle; or a fee of twenty-five cents if the application is for a license to drive a motor vehicle commonly designated as a private passenger vehicle. If no legal reason why such application should not be granted appears from said application or from any other source, the Probate Judge shall thereupon issue to the applicant, upon a form to be provided by the State Highway Department, a driver's license card.

Section 3. Every person licensed as a driver or operator of a motor vehicle shall write his usual signature, with pen and ink, in the space provided for that purpose on the driver's license card issued to him, immediately upon receipt of such card. The licensee shall have such driver's license card in his immediate possession at all times when operating a motor vehicle upon the public highways of this State. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof before any Justice of Peace Court or court of like jurisdiction, may be punished as provided for herein. Provided further, that no operator or driver of a motor vehicle shall be subject to a fine by reason of the loss of his driver's license card, provided that he makes affidavit that the same was lost or stolen within a period of twenty (20) days preceding, and that his application for a duplicate operator's license card was made within ten days of the discovery of the loss of the same.

Section 4. A driver's license card shall not be issued to any person under the following conditions: 1. When less than sixteen (16) years of age. 2. When operating privilege is suspended. 3. When operating privilege is revoked. 4. To an habitual drunkard or addict to the use of narcotic drugs. 5. When adjudged insane, or an idiot, imbecile, epileptic, or feeble-minded, until restored to competency by judicial decree, or released from a hospital for the insane, or feeble-minded, upon certification by the superintendent or medical director that such person is competent, nor then, unless the Probate Judge is satisfied such person is competent to operate a motor vehicle with safety to persons and property. 6. When afflicted with, or suffering from, a physical or mental disability which, in the opinion of the Probate Judge, will prevent such person from exercising reasonable and ordinary control over a motor vehicle.

Section 5. The following persons shall be exempt from the payment of the fee provided hereby, but said persons shall apply to the Probate Judge for issuance of a driver's license card before operating any motor vehicle upon the public highways; namely: 1. Every person in the service of the Federal Government, when

furnished with a driver's permit, and when operating an official motor vehicle in such service, shall be exempt from license under this act. 2. A non-resident who has been duly licensed as an operator under a law requiring the licensing of operator's in his home State or country, and who has in his immediate possession a valid operator's license issued to him in his home State or country, shall be permitted, without examination or operator's license under this act, to operate a motor vehicle upon the highways of this State, for the same time and to the same extent as like exemptions are granted residents of this State under laws of the foreign State or country. 3. It shall be unlawful for any non-resident, except as herein provided, whose home State or country does not require the licensing of operators, to operate any motor vehicle upon any highway in this State, without first making application for and obtaining a license as an operator, as required under this Act, except that any said unlicensed non-resident, who is the owner of a motor vehicle which has been duly registered for the current calendar year in the State or Country of which the owner is a resident, may operate motor vehicles upon the highways of this State for the same time and to the same extent as like exemptions are granted residents of this State under the laws of the state or country of the non-resident, without making application for or obtaining an operator's license under this act, upon condition that the non-resident owner has in his immediate possession a registration card evidencing such ownership and registration in his home state or country: Provided, That unlicensed non-resident operators not the owners of motor vehicles registered in states or countries not requiring an operator's license may operate any motor vehicle properly registered in their home state or country on any highway within this State, without making application for or obtaining an operator's license under this act, upon condition that they may be required at any time or place to prove lawful possession of such motor vehicle and proper identity.

Section 6. The Chief of the State Highway Patrol shall forthwith revoke, for a period of ninety days from date of revocation, the operating privilege of any person, upon receiving a certified record from the clerk of the court of proceedings in which such person pleaded guilty, entered a plea of nolo contendere, or was found guilty by a court or jury, of any of the following crimes: 1. Operating a motor vehicle while under the influence of intoxicating liquor, or any narcotic or habit producing drug, or permitting any person who may be under the influence of intoxicating liquor or narcotic or habit producing drug to operate any motor vehicle owned by him or in his custody or control. 2. Using a false or fictitious name, or giving a false or fictitious address, in any application or form required under the provisions of this act, or knowingly making a false statement, or knowingly concealing a mate-

rial fact, or otherwise committing a fraud in any application. 3. Any crime punishable as a felony under the motor vehicle laws of this State, or any other felony in the commission of which a motor vehicle is used. 4. Conviction of an operator of a motor vehicle involved in an accident, resulting in injury or death to any person or damage to property, upon the charge of failing to stop and render assistance or disclose his identity at the scene of the accident. (a) The Chief of the State Highway Patrol, upon revoking any operator's license, shall require that such license of any operator whose license or permit is so revoked shall immediately be surrendered to and retained by the department. (b) The Chief of the State Highway Patrol may suspend the operating privilege of any person, with or without a hearing, upon receiving a record of proceedings, if any, in which such person pleaded guilty, entered a plea of nolo contendere, or was found guilty by a court or jury, whenever the Chief of the State Highway Patrol finds upon sufficient evidence: (1) That such person has been convicted of a misdemeanor, or has forfeited bail upon such a charge, in the commission of which a motor vehicle was used. (2) That such person has been convicted of manslaughter resulting from the operation of a motor vehicle.

Section 7. On the first day of every month, the Probate Judges of the several counties of this State shall prepare a report, upon a form to be provided by the State Highway Department, of the collections made from the licenses hereby required. One copy of said report shall be forwarded to the Chief of the State Highway Patrol, one copy shall be forwarded to the State Comptroller and one copy shall be retained in the files of the Probate office.

Section 8. For each driver's license issued to the head of the family, for which fifty cents is charged, the Probate Judge shall be allowed a fee of ten cents which shall be paid by applicant, and for each license issued for which twenty-five cents is charged the Probate Judge shall be allowed a fee of five cents which shall be paid by applicant, which said fee shall include all compensation to the Probate Judge for performing all the duties herein prescribed. The license fees collected shall be remitted to the State Treasurer on or before the fifth day of each month. The said monies shall be kept in a separate fund in the State Treasury to be known as the "Highway Patrol Fund." Fines and Forfeitures imposed upon persons violating the provisions of this Act shall be rendered into the said Highway Patrol Fund by the officers of the several courts. Said Highway Patrol Fund shall be expended only for the purposes of maintaining and equipping a State Highway Patrol to promote the public safety, as aforesaid. The Probate Judge or any clerk in said Probate Office shall have the authority to administer oaths required on said applications and no charge shall be made for such services.

Section 9. The State Highway Commission, with the approval of the Governor, shall establish and promulgate reasonable rules and regulations concerning the operation of motor vehicles upon the highways of this State; and concerning the enforcement of the provisions of this Act.

Section 10. (a) Any person of whom a driver's license is required, who operates a motor vehicle on a public highway in this State without first obtaining such license shall be guilty of a misdemeanor, and, upon conviction thereof before a Justice of Peace Court or Court of like jurisdiction, shall be punished by a fine of not less than \$10.00. (b) Any person who willfully makes a false statement in an application for driver's license or for a renewal thereof or willfully conceals or withholds a material fact called for in such application with intent to obtain such license by such fraud, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than \$10.00 and not more than \$100.00, and may be imprisoned at hard labor for the county for not exceeding twelve (12) months, to be fixed in the discretion of the Judge or Court trying the case. (c) Any person who violates any provision of this Act for which no specific punishment is prescribed or who violates any rule or regulation established or promulgated by the State Highway Commission, with the approval of the Governor, as herein authorized, shall be guilty of a misdemeanor and, upon conviction thereof, before a Justice of Peace Court or Court of like jurisdiction may be punishable by a fine of not less than \$10.00. (d) All the fines, penalties or forfeitures imposed under the provisions of this Act shall be payable in lawful money of the United States. (e) Justices of the Peace or Notaries Public ex-officio Justices of the Peace in their respective counties shall have jurisdiction to try any person charged with the violation of this Act and shall be authorized to impose the penalties therein provided upon conviction.

Section 11. For the enforcement of the provisions of this Act, to promote the public safety and generally to perform the duties imposed upon the Governor concerning the enforcement of all the laws, the Governor is hereby authorized to establish a State Highway Patrol to consist of a Chief of State Highway Patrol, whose salary shall not exceed \$2750.00 per annum, two Captains of State Highway Patrol, whose salaries shall not exceed \$2250.00 per annum, each, four sergeants of State Highway Patrol, whose salaries shall not exceed \$1800.00 per annum, each, and such number of patrolmen as in his judgment is necessary, at a salary not to exceed \$1500.00 per annum, each, and such clerical assistance, stenographers, etc., as may be deemed necessary, together with the expenses incident to the performance of the duties herein prescribed, to be approved by the Governor; provided, however, that no State Highway Patrol officer shall be entitled to any costs for attending

any courts, but instead, the proper authorities shall collect such fees and mileage that are due such officers for attendance on any court or for any official act and to promptly turn same into the Highway Patrol Fund, and it shall become a part thereof, such fees and mileage to be expended as other moneys in said fund are authorized to be expended. Such officers and agents, when so authorized in writing by the Governor, shall have the power of Peace Officers in this State and may exercise such powers anywhere within the State. All persons so appointed shall hold office at the pleasure of the Governor and may be removed or discharged by him with or without cause. The compensation of such officers, agents and employees shall be fixed by the Governor within the limits prescribed by this section and shall be paid by warrant drawn by the Comptroller on the State Highway Patrol Funds in the State Treasury, as also shall the necessary expenses of said Patrol, when approved by the Governor, and the Chief of said State Highway Patrol, with the approval of the Governor, is hereby authorized to purchase the necessary equipment to make effective the provisions of this Act, payment for which shall be made out of the State Highway Patrol Fund as herein set out. Said officers, agents and employees shall perform all duties required of them by the Governor.

Section 12. That all laws and parts of laws in conflict herewith be, and the same are hereby repealed. Provided, however, that this Act shall not be construed to repeal any law requiring license to be obtained by chauffeurs. Upon issuance to any person of a chauffeur's license, the Probate Judge issuing the same shall issue to the applicant therefor a driver's license card, without the payment of the fee provided for herein. Any person serving as a member of said State Highway Patrol shall make bond in the amount of \$2000.00 payable to the State of Alabama conditioned as a sheriff's bond is now conditioned, and the Highway Patrol shall be subject to same liabilities, penalties, and damages under said bond as sheriffs are under this bond said premiums on said bonds to be paid out of funds of the State Highway Patrol.

Section 13. That this Act shall be effective immediately upon its passage and approval by the Governor.

Approved September 2, 1935.

## AN ACT

To create a State Department of Public Welfare; to provide for a State Board of Public Welfare for the government thereof; to prescribe its powers and duties; to provide for the appointment of a Commissioner as Executive Officer and for the appointment of other employees, their compensation and the maintenance and other expenses of the State Department of Public Welfare; to transfer to the State Department of Public Welfare all the powers, duties, and obligations now vested in and relating to the State Child Welfare Department, except the administration of the State Child Labor Law, which may now or hereafter be transferred to the Department of Labor in the event such department be established; to transfer to the State Department of Public Welfare all those duties having to do primarily with the determination of need and authorization of relief now performed by the Alabama Relief Administration; to empower the State Department of Public Welfare to administer all public assistance funds, Child Welfare funds, and all funds appropriated by the Legislature to the State Department of Public Welfare for the purposes for which they are appropriated; to authorize the State Department of Public Welfare to act as agent for and to cooperate with any Federal or State Agency or enactment now or hereafter provided by law for the purpose of rendering public assistance and services through any of the bureaus herein created; to authorize the State Board of Public Welfare to create such other bureaus and divisions within the purview of this Act as may be necessary for its administration and to prescribe rules and regulations governing the same; to authorize the State Board of Public Welfare to prescribe adequate standards of education, training and experience, which must have been attained by persons selected for the positions to be filled in each of the bureaus and divisions of the State Department of Public Welfare and in the several county departments of public welfare; to authorize the State Board of Public Welfare to issue certificates to such persons as may meet the qualifications prescribed; to provide a mental hygiene program of non-institutional care; to authorize the State Department of Public Welfare to collect statistics and other information relative to public Welfare and to make surveys and in other ways to ascertain the facts and conditions which cause or contribute to the need for public assistance, family welfare, child welfare, and other welfare activities; to create County Departments of public welfare and to provide for County boards of public welfare for the government thereof; to prescribe their powers and duties; to transfer to the county boards of public welfare and the county departments of public welfare all rights, duties, powers and obligations of the present county child Welfare boards; to authorize the county departments of public welfare, operating under the county boards of public welfare, to act as agents for and to cooperate with any Federal, State or County agency or enactment now or hereafter provided by law for the purpose of rendering public assistance, family welfare services and child welfare services; and to repeal all laws in conflict herewith.

*Be it enacted by the Legislature of Alabama:*

Section 1. The term "State Department" as used in this Act shall mean the State Department of Public Welfare; the term "State Board" as used in this act shall mean the State Board of Public Welfare; the term "Commissioner" as used in this Act shall mean the Commissioner of the State Department of Public Wel-

fare; the term "County Department" as used in this Act shall mean the County Department of Public Welfare; the term "County Board" as used in this Act shall mean the County Board of Public Welfare; the term "County Director" as used in this Act shall mean the Director of the County Department of Public Welfare; the term "he" or "she" as used in this Act shall be interpreted to mean he or she or him or her.

Section 2. There is hereby created a State Department of Public Welfare with subordinate bureaus and divisions which shall operate under a State Board of Public Welfare and consist of a Commissioner of Public Welfare and such other officers and employees authorized to be appointed under this Act and meeting the qualifications prescribed by the State Board.

Section 3. The State Board of Public Welfare hereby created shall consist of the Governor as Chairman and six members, not less than two of whom shall be women, appointed by the Governor without regard to political affiliation, but on the basis of recognized interest in welfare work. The members of the State Board shall be appointed as follows: Two for terms of two years; two for terms of four years; and two for terms of six years. Thereafter each member shall serve for a term of six years and until his successor is appointed and qualified. Vacancies shall be filled by the Governor for any unexpired term. The State Board shall meet at the State Capitol within thirty days after the approval of this Act. The State Board shall hold meetings at times and places to be prescribed by rules of the State Board or as may be designated by the Chairman. The presence of four members at any regular or special meeting shall constitute a quorum for the transaction of all business. Members of the State Board shall receive no compensation for their services other than the amount of their traveling and other expenses actually paid out while in attendance on the meetings of the State Board or business of the State Department.

Section 4. It shall be the duty of the State Board to appoint a Commissioner who shall serve as the executive and administrative officer of the State Department. Such a Commissioner shall be appointed on the basis of education, ability, and experience in the administration of public welfare and without regard to residence or political affiliation. The Commissioner shall serve at the pleasure of the State Board and his salary shall be fixed by the State Board with the approval of the Governor, not to exceed Thirty six hundred dollars. The State Board, in conference with the Commissioner, shall be responsible for the adoption of policies, rules and regulations for its government and for the government of the State Department; all administrative and executive duties and responsibilities of the State Department shall be performed by the Commissioner, subject to the authority of the State Board. Also the Commissioner shall be responsible for the interpretation



of policies, rules and regulations formulated by the State Board and for the coordination of the activities allocated by the State Board to the various bureaus. The State Board shall have the power and it shall be its duty to fix minimum standards of service and personnel, and to set salary schedules, based upon education, training, previous experience, and general efficiency which must have been attained by persons selected for the positions to be filled in the State Department and the County Departments of Public Welfare hereinafter created. Provided, however, the State Board shall not disqualify those Child Welfare Workers from holding office, if they have had at least four years experience as a Child Welfare Worker in Alabama for the past four years prior to the passage of this Act, on account of education requirement, training, previous experience and general efficiency.

Section 5. The State Board shall have the authority to decide with reference to the use of grants-in-aid, to County Departments of Public Welfare hereinafter created, for particular purposes according to the availability and adequacy of the facilities under the control of the local authorities to administer such grants-in-aid. In administering any such funds for grants-in-aid to local authorities the State Board shall have the following powers: (2) To require as a condition for receiving grants-in-aid that the County Department of Public Welfare shall bear a fixed proportion of the total expenses of furnishing these services. These proportions shall be determined in a uniform way throughout the State based upon such considerations as the amount of funds available to the State Department and the resources of the several local governments.

Section 6. The Commissioner shall submit to the State Board for its approval an annual budget of all funds appropriated by the Legislature to the State Department for the specific purposes for which they are appropriated and also a budget of Federal funds which may be allotted to the State by the Federal Government for the purposes of the State Department according to the regulations of the Federal authorities, he shall publish annually a full report of the operation and administration of the State Department, together with recommendations and suggestions and submit such report to the State Board. The Commissioner, subject to the approval of the State Board, shall appoint a director of each bureau and such other personnel as may be necessary for the efficient performance of the duties prescribed in this Act.

Section 7. There shall be created within the Department a Bureau of Family Welfare and Public Assistance, a Bureau of Child Welfare, a Bureau of Mental Hygiene for non-institutional care, and such other bureaus as the State Board may find to be necessary for the effective administration of the State Depart-

ment. The State Board shall have the power to allocate and re-allocate functions among bureaus and departmental agencies.

Section 8. The aim of the State Department shall be the promotion of a unified development of the Welfare activities and agencies of the State and of the local governments so that each agency and each governmental institution shall function as an integral part of a general system. In order to carry out effectively these aims it shall be the duty and responsibility of the State Department to: (1) Administer or supervise all forms of public assistance including general home relief, outdoor and indoor care for persons in need of assistance, and old age pensions, also including those duties that have to do primarily with the determination of need and authorization of relief now performed by the Alabama Relief Administration. (2) Exercise all the powers, duties and responsibilities now vested by law in the State Child Welfare Department which are hereafter to be performed by the Bureau of Child Welfare in the State Department of Public Welfare; take possession of all property, books or records, files and other documents and papers belonging to the State Child Welfare Department. Whenever reference to the State Child Welfare Department is made in any law of the State such reference shall be deemed to apply to the State Department of Public Welfare. (3) Provide services to county or municipal governments including the organization and supervision of counties for the effective carrying out of welfare functions, the compilation of statistics, and other information relative to public welfare and to make surveys and in other ways to ascertain the facts which cause or contribute to the need for public assistance, family welfare, child welfare, and other welfare activities. (4) Issue certificates to such applicants as may meet the qualifications prescribed by the State Board. (5) Assist other departments, agencies and institutions of the State and Federal government, when so requested, by performing services in conformity with the purposes of the State Department. (6) Act as the agent of the Federal Government in welfare matters of mutual concern, and in the administration of any Federal funds granted to the State to aid in the furtherance of any of the functions of the State Department, and be empowered to meet such Federal standards as may be established for the administration of such funds. (7) Designate County Departments as its agents under its rules and regulations to perform any of the State Department's functions. (8) Administer such welfare functions as may hereafter be vested in it by law. (9) Provide a mental hygiene program of non-institutional care in the interest of preventive work and general mental hygiene activities. Provided, however, that no power herein conferred shall be so exercised as to impair or infringe the powers, authorities, and functions of the Boards and Officers governing or controlling the Alabama In-

sane Hospitals, Partlow State School, Alabama Boys Industrial School, State Training School for Girls, Alabama Institute for Deaf and Blind, State Health Department, Juvenile and Courts of Domestic Relations.

Section 9. The administration of the State Child Labor Law, now executed by the present State Child Welfare Department, is hereby transferred to the Department of Labor in the event such Department be established.

Section 10. There shall be established in each county a County Department of Public Welfare which shall operate under a County Board of Public Welfare and shall consist of the County Director of Public Welfare and such employees as the County Board and the State Board deem necessary for the efficient performance of the Welfare services of the County. The rights, powers, duties and responsibilities now vested by law in the County Board of Child Welfare are hereby transferred to and vested in the County Board of Public Welfare upon the approval of this Act, the County Board of Child Welfare, whose rights, powers, duties and responsibilities are hereby transferred, shall be abolished. Whenever reference is made in any law of the State to the County Child Welfare Board such reference shall be deemed to apply to the County Board of Public Welfare. All property, books or records, files and other documents and papers belonging to the County Child Welfare Boards are hereby conveyed and transferred to the County Boards of Public Welfare.

Section 11. The County Board of Public Welfare shall consist of seven members, not less than two of whom shall be women, selected by the County Court of Commissioners or County Board of Revenue or other governing body of the County from the citizenship of the county on the basis of their recognized interest in the public welfare, provided that in counties in which there are cities having a population of sixty thousand or more, according to the last Federal Census, the city commission or other governing body of the city shall have equal authority with the County Board of Revenue or other governing body of the County in selecting the membership of the County Board of Public Welfare. Members of the County Board shall serve for terms of six years. Members of the County Board shall be appointed as follows: Two for terms of two years; two for terms of four years; and three for terms of six years. Thereafter each member shall serve for a term of six years and until his successor is appointed and qualified. Vacancies shall be filled for the unexpired terms in the same manner as the original appointments were made. The County Board shall meet at the County Seat within sixty days, or at the call of the Commissioner, after its appointment and shall elect from among its members a chairman and a Secretary to serve at the pleasure of the County Board. The County Board shall hold

meetings under rules to be established by the County Board in conformity with the regulations of the State Board and such additional meetings as may be called by the Chairman. The presence of four members at any regular or special meeting shall constitute a quorum for the transaction of all business. Members of the County Board shall serve without compensation for their services as members but shall be reimbursed out of the general funds of the County for the amount of their traveling and other expenses actually paid out while in attendance at the meeting of the County Board.

Section 12. It shall be the duty of the County Board of Public Welfare to appoint a County Director of Public Welfare who shall be the executive officer of the County Department meeting the qualifications prescribed by the State Board, and the appointment shall be made without regard to political affiliations. The tenure of the County Director shall be at the pleasure of the County Board. The salary of the County Director shall be fixed by the County Board in conformity with the salary schedule as prescribed by the State Board.

Section 13. It shall be the duty of the County Director to meet regularly with the County Board which shall formulate general policies, rules and regulations. It shall also be the duty of the County Director to advise the County Board in regard to the activities of the County Department. All administrative and executive duties and responsibilities of the County Department not inconsistent with the rules and regulations of the State Board shall be performed by the County Director, subject to the approval of the County Board. These duties and responsibilities shall include relief to persons in need of assistance; the performance of family welfare services, the care of dependent, neglected, delinquent and otherwise handicapped children, and such other child-care activities as shall be delegated to it by the State Department of Public Welfare; and the investigation of applications for admission to and discharges from county institutions providing care and treatment for indigents. It shall be the duty of the County Department of Public Welfare to furnish to the County Board and the State Board such reports concerning the activities of the County Department and concerning the status of the welfare functions within its jurisdiction as the County Board and the State Department shall require. If appointed by a court of competent jurisdiction, the County Department of Public Welfare shall, through its Director and his assistants hereinafter provided for, perform under the supervision of such court, the functions of: (a) A probation officer of the court having jurisdiction of dependent, neglected, delinquent and otherwise handicapped children; (b) Agent of the court for making investigations pertaining to the commitment of persons to or discharged from State institutions.

Section 14. The County Director, with the approval of the County Board, shall appoint such staff as may be necessary to administer all welfare activities within its jurisdiction and to perform all other duties required of him. Such appointments, with the exception of the clerical staff, shall meet the qualifications as to training, experience and efficiency which are prescribed by the State Board. The salaries of the staff shall be fixed by the County Board in conformity with the salary schedule prescribed by the State Board. Adequate traveling expenses for the County Director and his staff while in performance of their duties shall be fixed by the County Board in conference with the County Director. The County Board of Revenue, Court of County Commissioners, or other governing body of the County and incorporated municipalities within the County shall make joint appropriations for office space, supplies, and for the maintenance of the functions to be performed by the County Department of the Public Welfare, and shall mutually participate in the benefits thereof, but the amount to be appropriated by said governing body of the County and by each municipality shall be subject to the approval of the said governing body of the County and the participating municipality or municipalities. When federal and State funds are available for use by County Boards, they shall be allocated by the State Board. Due consideration shall be given in the allocation of these funds to population, extent of need and the financial conditions of the County.

Section 15. The County Board of Education and the County Board of Revenue or other governing body of the county shall have authority to arrange for the joint service of public welfare and school attendance by the County Director or any member or members of his staff in the same manner as heretofore provided in the County Child Welfare Board Act. Provided that the County or City Board of Education shall have complete charge of the services of the persons employed for the joint service of School Attendance and Welfare for the same proportion of the joint worker's time as the amount appropriated by the county or city Board of Education bears to the total amount appropriated by the local county or city officials for the joint service. (Article 4, Section 143—152, Code of Alabama, 1923.)

Section 16. Whenever there is any litigation pending to which the State Child Welfare Department is a party whether plaintiff or defendant the State Department is herein substituted for the State Child Welfare Department and the litigation may proceed as if begun originally by or against the State Department.

Section 17. For the maintenance of the duties and obligations of the State Department appropriations shall be made out of the general funds of the State for the various and separate activities of the State Department.

Section 18. It is hereby declared to be the Legislative intent that if this Act cannot take effect in its entirety because of the decision of any court holding unconstitutional the inclusion herein of any part paragraph, word, or phrase, the remaining provisions of the Act shall be given full force and effect as completely as if the part held unconstitutional had not been included herein.

Section 19. All laws and parts of laws, whether general, local or special, in conflict with any of the provisions of this Act are hereby expressly repealed.

Section 20. Nothing in this Act shall be construed to transfer to State or County Public Welfare Boards any functions, responsibilities, duties, or services now authorized by law to be performed by State, County or City Boards of Education. Nor shall this Act give authority to State or County Public Welfare Boards for the administration or supervision of the administration of any State or Federal appropriations, grants, aids, gifts, or loans now being administered or which may hereafter be administered by the State Board of Education and local school authorities.

Approved August 27, 1935.

No. 333)

(S. 305—Glover.

### AN ACT

To authorize the guardians of the estates of minors, persons non compos mentis, or any other persons to make mineral leases upon the real estate belonging to their wards; to define "minerals" as used in this Act; to define "real estate" and "property" as used in this Act, and to repeal Sections 8155, 8156, 8157, and 8158 of the 1923 Code of Alabama.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That the guardians of the estates of minors, persons non compos mentis, or any other persons, heretofore or hereafter appointed under the laws of the State of Alabama, shall have the authority to make mineral leases upon the real estate belonging to their wards.

Section 2. That whenever a guardian of the estate of any such person or persons shall desire to make a mineral lease upon the real estate of his ward, he shall apply to the Probate Court of the County where such guardianship is pending for authority to make and execute such mineral lease, and such application shall be in writing and sworn to by such guardian, and shall show that it be to the interest of the ward that a mineral lease should be made of the real estate of the ward, possessing or supposed to possess minerals, and the Probate Court, either in term time or vacation, shall hear such application. Such hearing must not be had until after the appointment of a guardian ad litem to represent the ward.

The order authorizing the lease shall not be made until upon proof the Court is satisfied as to the necessity and advisability of such lease and that it would be to the interest of the ward to make such lease. And if the Court shall approve the same, it shall make and enter an order, either in term time or vacation, authorizing the guardian to make such mineral lease, publicly or privately as the Court may direct, which order shall set out the terms upon which it shall be made.

Section 3. The Court may authorize such lease; to provide for exploring, prospecting, drilling, mining and operating for, and the producing and taking of the minerals made subject to the lease; to provide for the saving, storing, taking care of, treating, manufacturing, loading and transporting such minerals; and to provide for constructing, maintaining, using, enjoying, and removing any machinery, plants, power stations, pipe, casing, pipe lines, tanks, bins, reservoirs, storage accommodations, camps, houses, buildings, telephone, telegraph, light or power cables or lines, rail or other roads or ways, and in general, any appliances, structures, equipment, easements, servitudes, and privileges which may be necessary, useful or convenient to or in connection with any operations conducted by the lessee in said lease on the real estate subject to such lease, or on any adjacent lands. The Court may authorize such lease to provide for a maximum term not to exceed ten years and as long thereafter as production of the leased mineral or minerals is obtained or operations for the discovery or production of same are conducted. The Court may authorize the guardian to execute such lease for a rent payable in money at such time and place as the Court may appoint, or for a royalty or gal-lage rent, or for a footage rent, or for such other rent, royalty or consideration as to the Court may seem most advantageous to the ward, and the Court may authorize such lease to provide for the payment of a rental in lieu of operations or production under said lease, provided the payment of such rental, known as delay rental, shall not extend the term of the lease beyond ten years unless operations have commenced or production has been obtained. And the Court may authorize any lease terms or provisions which to the Court appear proper for the advantageous leasing of the property.

Section 4. If the Court orders such leasing to be public, the Court shall require the guardian to give such notice of the proposed leasing as the Court may deem to be necessary for an advantageous leasing of the property.

Section 5. The guardian must, within ten days after making such lease, report the same in writing, under oath, to the Probate Court, accompanied with a duplicate of the lease; and if, upon examination, the Court is satisfied that the terms of the order have been complied with and the lease is to the advantage of the

ward, an order of confirmation, in term time or vacation, must be made and entered, where upon said lease in all of its terms and provisions shall be valid and operative. Until such order of confirmation, the lease is not valid and operative. If the Court is not satisfied that there has been compliance with the terms of the order and that the lease is to the advantage of the ward, an order rejecting the report must be entered; and the Court may authorize the guardian to proceed to a subsequent leasing, subject to rejection or confirmation by the Court.

Section 6. The term "minerals" as used in this Act includes one or more of the following, salt, sulphur, ores, clay, Fuller's Earth, ochre, marble, granite, slats, stone, zinc, lead, graphite, coal, iron ore, petroleum, oil, gas, or any other valuable deposit or deposits.

Section 7. The term "real estate" or "property" as used in this Act shall include any interest in real estate, and the interest may be less than the entire fee simple estate whether held separately or as tenant in common.

Section 8. If the guardianship is pending in the Circuit Court in Equity or any other Court exercising probate jurisdiction, such Court is vested with the same power and jurisdiction herein vested in the Probate Court.

Section 9. The following sections of the Code of Alabama, 1923, are hereby repealed, namely, Sections 8155, 8156, 8157 and 8158; and all other laws or parts of laws inconsistent with or in conflict with this Act are hereby repealed.

Section 10. The invalidity of any sentence, clause, paragraph, section or portion of this Act shall not affect the validity of any other portions thereof which can be given affect without such invalid part.

Section 11. This Act shall take effect upon its approval by the Governor.

Approved September 6, 1935.

No. 334)

(S. 308—Kelly)

### AN ACT

To provide for the expenditure of funds now or hereafter made available for the conduct of public health work in this State; to provide for the election and compensation of the State Health Officer, and to fix his term of office and to provide for the manner of determining compensation of employees of the State Health Department.

*Be it enacted by the Legislature of Alabama:*

Section 1. All funds or appropriations now or hereafter made available for the preservation, furtherance, or maintenance of public health in this State shall be expended in accordance with



an annual budget prepared by the State Health Officer with the approval of the State Board of Health for the purposes enumerated in Section 1159 of the Code of Alabama of 1923 and for such other purposes deemed essential and necessary by the State Board of Health for the protection of the public health of the State, provided however that the total expenditures provided for in said budget shall not exceed the total funds or appropriations made available for public health work during that year. A copy of said budget shall be filed annually in the office of the State Comptroller.

Section 2. The State Health Officer shall be elected by the State Board of Health and shall hold office for a term of five years and until his successor has been elected and has qualified. His compensation during said term of office shall be fixed by the State Board of Health, provided that the salary shall remain as fixed by the Legislature of 1933 until such time as salaries of other departmental heads have been adjusted; and provided further that it shall not then exceed the amount paid the Chief Justice of the Supreme Court.

Section 3. The compensation of all employees, agents or subordinate personnel of the State Health Department shall be determined by the State Health Officer with the approval of the State Board of Health.

Section 4. That all laws and parts of laws, general, special or private, in conflict with the terms and provisions of this Act, are hereby repealed, and all existing laws or parts of laws applicable to the departments and agencies of the State generally and to the State Board of Health in conflict with the terms and provisions of this Act are hereby repealed, in so far as they are applicable to the State Board of Health.

Section 5. If any clause, sentence, paragraph, or part of this Act shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not effect, impair, or invalidate the remainder of the Act.

Section 6. This Act shall take effect and become operative immediately upon its passage and approval by the Governor.

Approved September 6, 1935.

No. 337

H. 547—Wallace

### AN ACT

To provide funds for the maintenance and operation of public libraries in incorporated towns or cities in Counties of the State of Alabama having not less than 100,000 nor more than 200,000 population.

*Be it enacted by the Legislature of Alabama:*

Section 1. That in every county in this State having a population of not less than 100,000 nor more than 200,000, according

to the last or any subsequent Federal Census, there shall be paid annually out of the general fund of such county to the board, commission or other governing body, duly constituted by public law, of each public library situated in any incorporated town or city sums equal to seven cents (\$.07) per capita of the population of each such incorporated town or city in every such county, for the maintenance and operation of such public library or libraries, such sums to be paid monthly in twelve equal installments on the first day of each calendar month or, if such public library or libraries be hereafter constituted, beginning on the first day of the calendar month following the constitution of each such public library.

Section 2. That all laws and parts of laws in conflict herewith are hereby repealed.

Section 3. That this law shall take effect immediately upon its passage and approval by the Governor.

Approved September 6, 1935.

No. 339)

H. 646—Toomer

#### AN ACT

To amend Section 6, of Article One of an Act entitled an Act, "To provide a general system of legislation pertaining to public roads, highways and bridges, including therein the establishment of a State Highway Department and State Highway Commission; to create the office of Alabama Highway Director in Alabama; to define and regulate the powers and duties and authority of the State Highway Commission and of local authorities, boards of revenue, courts of county commissioners, municipalities or like governing bodies; to provide authority and empower the Board of Administration to make agreements and contracts with the State Highway Commission for convict labor and let contracts for signs, advertising, etc., on highways; to define and provide rules of the road, including traffic regulations, penal violations, duties of owners and drivers and the regulation as to size, weight and equipment of motor vehicles moving over, along, or upon such roads; to provide for the establishment, discontinuance, working and maintenance of public roads, bridges and ferries; to provide for the establishment and maintenance of private roads; to provide for State Bonds for construction and maintenance of roads, issue and sale of; Good Roads Day established; Offenses concerning toll bridges, turnpikes and causeways; protecting bridges from floating logs and to provide against injury to mill dams, bridges, canals and road gates; to provide for working of public roads; persons liable and persons exempt from road duty; to provide for railroad tracks, bridges, viaducts and tunnels; and the repeal of all laws and parts of laws in conflict with the provisions of this Act, except such laws pertaining to revenue; Approved August 23, 1927," as amended by an Act entitled an Act, "To amend Section 6, of Article One of an Act entitled an Act 'To provide a general system of legislation pertaining to public roads, highways and bridges, including therein the establishment of a State Highway Department and State Highway Commission; to create the office of Alabama Highway Director

in Alabama; to define and regulate the powers and duties and authority of the State Highway Commission and of local authorities, boards of revenue, courts of county commissioners, municipalities or like governing bodies; to provide authority and empower the Board of Administration to make agreements and contracts with the State Highway Commission for convict labor and let contracts for signs, advertising, etc., on highways; to define and provide rules of the road, including traffic regulations, penal violations, duties of owners and drivers and the regulation as to size, weight and equipment of motor vehicles moving over, along or upon such roads; to provide for the establishment, discontinuance, working and maintenance of public roads, bridges and ferries; to provide for the establishment and maintenance of private roads; to provide for State Bonds for construction and maintenance of roads, issue and sale of; Good Roads Day established; Offenses concerning toll bridges, turnpikes and causeways; protecting bridges from floating logs and to provide against injury to mill dams, bridges, canals and road gates; to provide for working of public roads; persons liable and persons exempt from road duty; to provide for railroad tracks, bridges, viaducts and tunnels; and the repeal of all laws and parts of laws in conflict with the provisions of this Act, except such laws pertaining to revenue; Approved April 10, 1931.

*Be it enacted by the Legislature of Alabama:*

Section 1. To amend Section 6, of Article One of an Act entitled an Act, "To provide a general system of legislation pertaining to public roads, highways and bridges, including therein the establishment of a State Highway Department and State Highway Commission; to create the office of Alabama Highway Director in Alabama; to define and regulate the powers and duties and authority of the State Highway Commission and of local authorities, boards of revenue, courts of county commissioners, municipalities or like governing bodies; to provide authority and empower the Board of Administration to make agreements and contracts with the State Highway Commission for convict labor and let contracts for signs, advertising, etc., on highways; to define and provide rules of the road, including traffic regulations, penal violations, duties of owners and drivers and the regulation as to size, weight and equipment of motor vehicles moving over, along, or upon such roads; to provide for the establishment, discontinuance, working and maintenance of public roads, bridges and ferries; to provide for the establishment and maintenance of private roads; to provide for State Bonds for construction and maintenance of roads, issue and sale of; Good Roads Day established; Offenses concerning toll bridges, from floating logs and to provide against injury to mill dams, bridges, canals and road gates; to provide for working of public roads; persons liable and persons exempt from road duty; to provide for railroad tracks, bridges, viaducts and tunnels; and the repeal of all laws and parts of laws in conflict with the provisions of this Act; except such laws pertaining to revenue; Approved August 23, 1927," as amended by an Act entitled an Act, "To amend Section 6, of Article One of

an Act entitled an Act, 'To provide a general system of legislation pertaining to public roads, highways and bridges, including therein the establishment of a State Highway Department and State Highway Commission; to create the office of Alabama Highway Director in Alabama; to define and regulate the powers and duties and authority of the State Highway Commission and of local authorities, boards of revenue, courts of county commissioners, municipalities or like governing bodies; to provide authority and empower the Board of Administration to make agreements and contracts with the State Highway Commission for convict labor and let contracts for signs, advertising, etc., on highways; to define and provide rules of the road, including traffic regulations, penal violations, duties of owners and drivers and the regulation as to size, weight and equipment of motor vehicles moving over, along or upon such roads; to provide for the establishment, discontinuance, working and maintenance of public roads, bridges and ferries; to provide for the establishment and maintenance of private roads; to provide for State Bonds for construction and maintenance of roads, issue and sale of; Good Roads Day established; Offenses concerning toll bridges, turnpikes and causeways; protecting bridges from floating logs and to provide against injury to mill dams, bridges, canals and road gates; to provide for working of public roads; persons liable and persons exempt from road duty; to provide for railroad tracks, bridges, viaducts and tunnels; and the repeal of all laws and parts of laws in conflict with the provisions of this Act, except such laws pertaining to revenue;" Approved April 10, 1931, be and the same is hereby amended so as to read as follows: Section 6. (1303) DUTIES AND POWERS OF COMMISSION.—The State Highway Commission shall consider and determine all questions relating to the general policy of the State Highway Department and the conduct of its work and in the performance of its duties. It shall be the duty of the department to designate the roads to be constructed, repaired and maintained and to construct, standardize, repair and maintain roads and bridges of this State; and shall have authority to make contracts or agreements to construct, or pave the roadway only of the street or streets, which will serve to connect the State Highway constructed or repaired by the State Highway Department, within any town, or municipality in the State of Alabama, and in such towns or municipalities in which the State Highway Commission has not designated the street or streets which are a part of the State highways constructed or repaired by the State Highway Department it shall be the duty of the State Highway Commission to designate such street or streets and where the roadway of such street or streets was not in the corporate limits of such municipalities prior to the 26th day of August, 1927, but subsequently included in the corporate limits thereof by extending the

city limits of such municipality by an Act of the Legislature, and which street or streets have been improved and paved with hard surface paving at the expense or credit of such towns or municipalities, or of the property owners owning property abutting such street or streets, the State Highway Commission shall make such contracts or agreements as may be necessary to provide for payment by the State of the actual cost of such hard surfaced paving for a width of twenty feet, provided that the total amount shall not exceed \$50,000.00 for all of such towns or municipalities in which the city limits have been extended since August 26, 1927, by an Act of the Legislature, and the amount of \$50,000.00 shall be prorated among such cities and towns in proportion to the amount actually expended by them, and may also cooperate or contract with any municipality or county in the paving or improving of any street or streets, highway or highways, walkway or walkways upon which a State educational or eleemosynary institution or the property thereof may front or abut, provided that where said State educational or eleemosynary institution or the property thereof fronts or abuts on both sides of such street or streets, highway or highways, walkway or walkways, the State Highway Department is hereby authorized to and shall expend an amount of money sufficient to cover the entire cost thereof, provided further that where such institution or the property thereof fronts or abuts on only one side of such street or streets, highway or highways, walkway or walkways the said Department shall expend an amount of money sufficient to cover only one-half of the cost thereof. Provided, however, in such case, with the special approval of the Governor, said Department shall be authorized to expend a sum of money sufficient for the entire cost; and provided further the said Department may also, with the special approval of the Governor, improve or pave any street or streets driveway or driveways (including curb and gutter) and walkway or walkways on, by or through the grounds upon which a State educational or eleemosynary institution is located and to pay the entire cost thereof, the State Highway Commission is authorized and empowered and may, with the approval of the Governor, enter into contract by bond or policy, with an Insurance Company authorized to do business in this State, covering a certain amount to be paid to the employees of the State Highway Department, actually engaged in the Construction, Maintaining or Repairing of Public Roads and Bridges, who by accidental means may be killed or injured. Provided that the amount paid to any such party on account of accidental death, or injury shall not exceed the amount or amounts as provided by the Compensation Act of this State. The premium upon such bond or policy shall be paid out of the funds of the State Highway Department as provided by

law; and to that end and for that purpose the Department may with the consent and approval of the Governor disburse any monies hereby or otherwise appropriated or set apart for the construction, repair or maintenance of the public roads, bridges and highways of this State.

Approved September 6, 1935.

No. 344)

(H. 823—Johnston

### AN ACT

To cede to the United States of America exclusive jurisdiction over the Fort McClellan Military Reservation in Calhoun County, Alabama.

*Be it enacted by the Legislature of Alabama:*

Section 1. That exclusive jurisdiction be and the same is hereby ceded to the United States of America over and with respect to all lands now, or which may hereafter be, embraced in the Fort McClellan Military Reservation in Calhoun County.

Section 2. That the jurisdiction hereby ceded shall continue during the term the United States of America shall remain the owner of said lands, and shall be exclusive for all purposes except that all process, civil and criminal, issuing under authority of the State may be executed by the proper officers thereof upon any person amenable to the same within the limits of said reservation.

Section 3. This Act shall take effect upon its passage.

Approved September 6, 1935.

No. 355)

(S. 19—Simpson.

### AN ACT

To provide that courts of record of the State of Alabama shall have the power to render declaratory judgments and to provide for practice and procedure in such cases.

*Be it Enacted by the Legislature of Alabama:*

Section 1. SCOPE. Courts of record within their respective jurisdictions shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree.

**Sec. 2. POWER TO CONSTRUE, ETC.** Any person interested under a deed, will, written contract, or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations thereunder.

**Sec. 3. BEFORE BREACH.** A contract may be construed either before or after there has been a breach thereof.

**Sec. 4. EXECUTOR, ETC.** Any person interested as or through an executor, administrator, trustee, guardian, or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, lunatic, or insolvent, may have a declaration of rights or legal relations in respect thereto: (a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin, or other; or (b) To direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or (c) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

**Sec. 5. ENUMERATION NOT EXCLUSIVE.** The enumeration in sections 2, 3 and 4 does not limit or restrict the exercise of the general powers conferred in section 1, in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

**Sec. 6. DISCRETIONARY.** The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.

**Sec. 7. REVIEW.** All orders, judgments, and decrees under this act may be reviewed as other orders, judgments, and decrees.

**Sec. 8. SUPPLEMENTAL RELIEF.** Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be by petition to a court having jurisdiction to grant the relief. If the application be deemed sufficient, the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted forthwith.

**Sec. 9. JURY TRIAL.** When a proceeding under this act involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other civil actions in the court in which the proceeding is pending.

Sec. 10. **COSTS.** In any proceeding under this act the court may make such award of costs as may seem equitable and just.

Sec. 11. **PARTIES WHEN DECLARATORY RELIEF IS SOUGHT.** All persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party, and shall be entitled to be heard, and if the statute, ordinance, or franchise is alleged to be unconstitutional, the attorney-general of the state shall also be served with a copy of the proceeding and be entitled to be heard.

Sec. 12. **CONSTRUCTION.** This act is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respects to rights, status, and other legal relations; and is to be liberally construed and administered.

Sec. 13. **WORDS CONSTRUED.** The word "person" wherever used in this act, shall be construed to mean any person, partnership, joint stock company, unincorporated association or society, or municipal or other corporation of any character whatsoever.

Sec. 14. **PROVISIONS SEVERABLE.** The several sections and provisions of this act, except sections 1 and 2, are hereby declared independent and severable, and the invalidity, if any, of any part or feature thereof shall not affect or render the remainder of the act invalid or inoperative.

Sec. 15. **UNIFORMITY OR INTERPRETATION.** This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it, and to harmonize, as far as possible, with federal laws and regulations on the subject of declaratory judgments and decrees.

Sec. 16. **SHORT TITLE.** This act may be cited as the Uniform Declaratory Judgments Act.

Sec. 17. **TIME OF TAKING EFFECT.** This act shall take effect upon its enactment.

Approved September 7, 1935.



No. 356)

(S. 223—Russell

## AN ACT

To abolish causes of action for alienation of affections, criminal conversation, seduction of any female person of the age of 21 years or over, and breach of contract to marry.

*Be it enacted by the Legislature of Alabama:*

Section 1. All civil causes of action for alienation of affections, criminal conversation and seduction of any female person of the age of 21 years or over, and all causes of action for breach of contract to marry are hereby abolished: Provided, however, That this Act shall not apply to causes of action which have heretofore accrued, or to contracts to marry existing prior to the effective date of this Act.

Section 2. No act hereafter done within this State shall operate to give rise, either within or without this State, to any of the causes of action abolished by this act, and no contract to marry which shall hereafter be made within this State shall operate to give rise, either within or without this State, to any cause of action for breach thereof.

Section 3. All civil causes of action for alienation of affections, criminal conversation, seduction of any female person of the age of 21 years or over, and breach of contract to marry, which have heretofore accrued shall be commenced, within sixty days after this Act goes into effect, and if not so commenced, shall thereafter be completely barred. All actions for breach of contract to marry, now existing, shall be commenced within sixty days after such breach occurs, and if not so commenced, shall thereafter be completely barred.

Section 4. Nothing in this Act shall be construed to repeal any of the criminal laws of this State.

Approved September 7, 1935.

No. 357

(S. 377—Cook

## AN ACT

To prescribe and regulate the salary and compensation of the members of the Courts of County Commissioners and/or Boards of Revenue and/or other Governing Bodies in all counties of Alabama, which now have or may hereafter have a population of less than fifteen thousand, according to the last, or any subsequent Federal Census and to provide the manner of payment and to repeal all laws and parts of laws in conflict with this Act.

*Be it enacted by the Legislature of Alabama:*

Section One: Each member of the Court of County Commissioners and/or Board of Revenue and/or other Governing

Bodies in each of the several counties of the State of Alabama which now have, or may hereafter have a population of less than fifteen thousand, according to the last, or any subsequent Federal Census, shall be paid out of the County Treasury of their respective counties for their services, the sum of Thirty seven and 50/100 (\$37.50) Dollars, for each calendar month to be paid out of any funds in the County Treasury on the 1st day of each month for the preceding month.

Section Two: That the salary of Thirty-seven and 50/100 (\$37.50) Dollars, per month shall be in lieu of all other fees, salaries and compensation of the several officials named in Section One of this Act.

Section Three: All laws and parts of laws in conflict herewith are hereby repealed.

Section Four: This Act shall go into effect on the 1st day of the month after its passage and approval by the Governor, or upon its becoming a law without his approval.

Approved September 7, 1935.

No. 359)

(S. 379—Cook.

### AN ACT

To authorize and empower the Courts of County Commissioners and/or Boards of Revenue, and/or other Governing Bodies of all counties of Alabama which now have or may hereafter have a population of less than fifteen thousand, according to the last, or any subsequent Federal census, to transfer any funds (except school monies and sinking funds) that may be received by the county, to the general fund of the county at any meeting of said Court, or Board of Revenue or Governing Body and to ratify like transfers heretofore made and to repeal all laws and parts of laws in conflict with this section.

*Be it enacted by the Legislature of Alabama:*

Section One: That the Courts of County Commissioners, and/or Boards of Revenue, and/or other Governing Bodies in all counties of Alabama which now have or may hereafter have a population of less than fifteen thousand, according to the last, or any subsequent Federal Census, be, and hereby is authorized and empowered to transfer any funds (except school monies and sinking funds) that may be received by the county, to the general fund of the county at any meeting of said Court.

Section Two. All transfers heretofore made by a Court of County Commissioners, or Board of Revenue, or other Governing Body of any of the funds named in Section One of this Act are hereby ratified.

Section Three: All laws and parts of laws in conflict herewith are hereby repealed.

Section Four: If any section of this Act shall be held to be invalid by any Court, such holding shall not affect any other section which is not in and of itself unconstitutional.

Approved September 7, 1935.

No. 360)

(H. 595—Adams.

### AN ACT

To authorize and empower the County Board of Education, or other like body by whatsoever name it may be called, in all counties in this State having a population according to the last or any subsequent federal census in excess of 300,000 to employ from time to time a certified public accountant to audit the books of said body, and the books of the County Treasurer of School Funds or other custodian of school funds, and pay for the services of such accountant out of public school funds, and to repeal all laws and parts of laws in conflict herewith.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That the County Board of Education, or other like body by whatsoever name it may be called, in all counties in this State having a population according to the last or any subsequent federal census in excess of 300,000, is hereby authorized and empowered to employ from time to time a certified public accountant to audit the books of said body, and the books of the County Treasurer of School Funds or other custodian of school funds.

Section 2. That said body is further authorized and empowered to pay for the services of such accountant out of public school funds.

Section 3. That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Approved September 7, 1935.

No. 365)

(H. 886—Lee

### AN ACT

To authorize and provide a fund to be known as the "State Surety Insurance Fund" to be carried in the State Treasury for the purpose of insuring the State, counties and municipalities of the State of Alabama against loss from defalcation, misappropriation or other improper disposition of State, county or municipal funds; to establish a basis for the assessment and collection of the premiums from the State, counties, municipalities and individuals to be paid into the State Treasury, and to provide for a sinking fund with which to reimburse the State, counties and municipalities for any loss occasioned from the defalcation, misuse or misappropriation of State, county or municipal funds and to transfer from the State Insurance Fund, as it now exists, \$100,000.00 to the State Surety Insurance Fund as an emergency fund to

be used only in case the losses sustained shall be in excess of premiums collected; and to authorize the State Board of Administration to administer said fund and to promulgate rules and regulations necessary for the proper administration of this Act; to provide for suit on such bonds and for the payment therein; and to provide for the execution of such bonds by the State Comptroller.

*Be it enacted by the Legislature of Alabama:*

Section 1. A fund is hereby created to be known as "State Surety Insurance Fund" to be carried by the State Treasurer in the State Treasury for the purpose of insuring the State and/or any and all counties, municipalities in said State against loss for the defalcation, misuse or misappropriation of any monies belonging to the State or counties, municipalities by any officer of the State or counties, municipalities including Justices of the Peace and Notaries Public with ex-officio powers of Justice of the Peace.

Section 2. That the State Board of Administration, or its legal successor, shall ascertain and determine the total amount of the bond required to be given by all State and County officers required by law to execute bonds before entering upon the discharge of their duties as such officer, including all the officers named in the preceding section, and to whom and in what amounts said bonds are payable, together with the premiums charged thereon.

Section 3. The premium charged shall be based on the commercial rate as of August 1, 1935, used by surety companies doing business in this State, and all such premiums shall be paid to the State Board of Administration, or its legal successor, at the time of the execution of such bond by the department of the State whose employees are to be bonded and by the Treasurer of the several counties of the State on the bonds of all county officers to be bonded, as required by law.

Section 4. That the premiums collected under the provisions of this Act shall constitute a trust fund to be applied only to the purposes of this Act, and such premiums, when collected, shall be placed in such depositaries as may be approved by the Governor at the best rate of interest obtainable for time deposits upon the execution by such depositaries of suitable bond or securities for such deposits, said bonds or securities to be approved by the Governor; or such funds may be invested in bonds of the United States Government or in bonds of the State of Alabama with the approval of the Governor. That the funds accruing under the operation of this Act shall constitute a sinking fund and surplus, which shall be subject to the requisition of the President of the State Board of Administration, with the approval of the Governor, for the payment of the losses herein provided, the necessary expenses of the administration and any refunds for maintenance.

Section 5. That there is hereby transferred from the State Insurance Fund to the State Security Insurance Fund the sum of

\$100,000.00, to be available only in case that the losses suffered by the State and/or county or municipalities by the defalcation, misuse or improper disposition of any State or county or municipalities funds by the officers having control thereof shall exceed during any year the premiums collected, and then only in such amount that may be required to pay such losses.

Section 6. When the sinking fund herein provided for shall have reached the sum of \$500,000.00 the first surplus above this amount shall be used to reimburse the State Insurance Fund of the State for any amount which may have been drawn from the appropriation herein made.

Section 7. The said State Board of Administration, with the approval of the Governor, may make such rules and regulations as are necessary and essential for the proper and full enforcement of this Act not inconsistent with the Constitution and Laws of the State of Alabama.

Section 8. That this Act shall become effective upon the proclamation of the Governor.

Section 9. All laws and parts of laws in conflict herewith are hereby expressly repealed.

Section 10. The State Comptroller shall be provided the form of the bonds to be executed, where the officers whose bonds are herein provided for, and shall execute the bonds for and on behalf of the State of Alabama.

Section 11. Any person or governmental subdivision aggrieved by the conduct of the officers herein bonded; or damaged by loss of any funds by the misconduct of any officer may sue the officer in the county of his residence, and when judgment is recovered a certificate thereof by the clerk of the court in which the judgment was rendered shall be presented to the State Comptroller who shall immediately issue his requisition upon the State Treasury for the payment of the amount shown by the certificate of the court clerk, and the State Treasurer shall issue his warrant for such an amount against the funds herein created, payable to the party, plaintiff, or his attorney of record, in the suit.

Approved September 7, 1935.

No. 366)

(H. 876—Wallace.

## AN ACT

To further provide for freeing Alabama highways of all toll bridges, through a corporation to be composed of the President of the State Board of Administration, the State Comptroller and the Chairman of the State Highway Commission, whose incorporation is authorized and to prescribe the power and authority of such corporation and provide it with funds necessary to enable it to accomplish the purpose of its creation.

*Be it enacted by the Legislature of Alabama:*

Section 1. LEGISLATIVE INTENT. It is the intention of the Legislature by the passage of this Act to authorize the incorporation of the President of the State Board of Administration, the State Comptroller and the Chairman of the State Highway Commission, for the purpose of freeing the Alabama Highways of all toll bridges through a corporation to be composed of its officials whose incorporation is authorized and to confer upon said corporation the power and authority set out in this Act and to provide said corporation with funds that will enable it to accomplish that object. This Act shall be liberally construed in conformity to that objective of the Legislature.

Section 2. AUTHORITY TO INCORPORATE. The President of the State Board of Administration, the State Comptroller and the Chairman of the State Highway Commission may become a corporation with the power and authority hereinafter provided by proceeding according to the provisions of this Act.

Section 3.—PROCEEDINGS TO INCORPORATE. To be come a corporation, the President of the State Board of Administration, the State Comptroller and the Chairman of the State Highway Commission shall present to the Secretary of the State of Alabama an application signed by them which shall set forth: (a) The name, official designation and official residence of the applicants together with a certified copy of the commission evidencing their right to the office. (b) A certified copy of the respective oaths of office and the date they were inducted into office, together with a statement that they desire to become a corporation under this Act. (c) The term of office of the applicants and the place where, if any, the official commission of applicants is kept for record. (d) The name of the proposed corporation. (e) The location and principal office of the proposed corporation which shall be the office of the President of the State Board of Administration of Alabama in Montgomery, Alabama. (f) Any other matter relating to the corporation which the applicants may choose to insert, not inconsistent with the laws of the State of Alabama. The application shall be subscribed and sworn to by each of the applicants before an officer authorized by the

laws of the State of Alabama to take acknowledgments. The Secretary of State shall examine the application and if he finds that the name proposed for the corporation is not identical with that of a person or any other corporation of this State, or so nearly similar thereto as to lead to confusion and uncertainty, he shall receive and file it, and record it in an appropriate book of records in his office.

Section 4. **CERTIFICATE OF INCORPORATION.** When the application has been made, filed and recorded, as herein provided, the applicants shall constitute a corporation under the name proposed in the application; the Secretary of State shall make and issue to the applicants a certificate of incorporation, pursuant to this article, under the seal of this State, and shall record the same with the application. There shall be no fees paid to the Secretary of State for any work in connection with the incorporating or dissolution of the corporation.

Section 5. **OFFICERS OF THE CORPORATION.** The President of the State Board of Administration of the State of Alabama shall be the President of said corporation; the State Comptroller shall be Vice-President and the Chairman of the State Highway Commission shall be the Secretary of said corporation thereof. No officer of the corporation shall draw any salary in addition to that now authorized by law for his services or on account of any duties he may perform or any services he shall render said corporation.

Section 6. **CORPORATION POWERS.** A corporation organized under this Article shall have the following powers: 1. To have succession by its corporate name for thirty years unless sooner dissolved. 2. To sue and be sued; prosecute and defend at law and in equity in any court having jurisdiction of the subject matter and of the parties. 3. To have and to use a corporate seal and to alter the same at pleasure. 4. To acquire by any lawful means and to convey to the State of Alabama real and personal property capable of being used in connection with the purpose of freeing bridges in Alabama. 5. To borrow money in such form and on such terms as may be approved by the Governor of Alabama and to issue notes, bonds or other negotiable paper in such amounts and in such form as may be approved by the Governor of Alabama. 6. To appoint and employ such officers and agents as the business of the corporation may require. 7. To wind up and dissolve itself, or be wound up and dissolved in the manner in this article provided.

Section 7. **SPECIAL CORPORATION POWERS.** The main purpose and chief business of the corporation herein authorized shall be to free the highways in Alabama of toll bridges.

The corporation is invested with the power of eminent domain, as fully and completely as that power is now conferred upon the State or any of its agencies or any corporation doing business therein, which power may be exercised in the same way and manner as it is exercised in cases where the State of Alabama or any corporation undertakes to acquire property by the exercise of the right of eminent domain and shall specifically include the right and authority to acquire by condemnation or the right of eminent domain any and all toll bridges in the State of Alabama. It shall also include the right, power and authority to condemn any interest or right in any toll bridge in Alabama, including the right to collect tolls, thereon, held by any mortgagee, trustee, bondholder, or other person firm or corporation. When it is proposed to condemn any toll bridge or any right or interest therein, the proceeding to condemn may be instituted in the Probate Court in the County in which the bridge is located, provided, however, that if the bridge or any part thereof is located in two or more counties, then the condemnation proceedings may be instituted in the Probate Court of any County in which any part of the bridge is located, and a resolution by the Board of Directors of the corporation to the effect that it is necessary in the public interest for the corporation to acquire the bridge, or the right or interest therein sought to be acquired by condemnation, duly certified to, under seal of the corporation, shall be sufficient authority for the institution and maintenance of the condemnation proceedings. The corporation is also empowered to construct, maintain, operate and acquire bridges, tunnels, tubes, overpasses, underpasses and to do all, things necessary to that end. Provided, however, said corporation shall have no authority to acquire any toll bridge, or any right or interest in any toll bridge, in Alabama without the approval of the Governor in writing; when it is proposed to acquire a bridge, the corporation shall cause an appraisal of the bridge to be made by a reputable appraisal engineer, which appraisal shall show the fair and reasonable value of the bridge, taking into consideration the right, authority and power of the State to provide a free highway by the construction of another or other bridges or otherwise, along with all other factors proper for consideration; said appraisal shall be reviewed by the state highway engineer, who shall report in writing whether in his opinion the appraisal is fair and reasonable or inadequate or excessive, specifying the amount in each instance, and then reviewed by the Governor who shall fix there on the amount that he is willing to approve as the purchase price of the bridge, or the interest proposed to be acquired. The purchase price of the bridge or the interest therein proposed to be acquired shall not exceed the price fixed by the Governor. If the damages for acquiring the bridge or bridges, or any interest



therein, are fixed at a sum in excess of the price fixed by the Governor, the corporation shall not have any authority to pay any sum in excess of the amount approved by the Governor.

Section 8. For the purpose of providing funds for acquiring toll bridges in Alabama, the corporation is hereby authorized to borrow money from time to time in such amounts as it may deem best and as the Governor may approve, and to execute therefor, the notes or bonds of the corporation signed by the three members thereof and attested by the Secretary of State. The notes and bonds herein authorized shall be payable in lawful monies of the United States and shall be in sums and denominations and be payable at such times and places as the corporation may determine and shall be free from taxes of all kinds in the State of Alabama. The principal and interest on said bonds shall be payable at the office of the State Treasurer or at the place of business of the fiscal agent in the City of New York at the option of the holder. The bonds issued by the corporation shall be negotiable instruments and in the manner and in the form prescribed by the corporation, and approved by the Governor.

Section 9. The approval of the Governor of Alabama of the terms and conditions under which a bridge may be acquired and the form and manner of the securities issued by the corporation shall be entered on the minutes of the corporation which shall be kept by its Secretary in a book especially prepared for that purpose and signed by the Governor. Said consent may be lithographed in the face of said bonds. All bonds issued by the corporation shall be signed by its President, attested by its Secretary and shall have the corporation seal affixed thereto. Provided, however, that the facsimile copy of the President's signature upon the interest coupon upon said bonds may be lithographed in lieu of signing the same. Any bonds issued by the corporation shall be executed, sold and delivered from time to time and shall be in such denomination and series and shall mature at such time and bear such rate of interest, not exceeding four per cent (4%) per annum, payable semi-annually as the corporation may by resolution provide but such bonds shall not be sold for less than the par value thereof. The incorporators of the corporation shall constitute its board of directors and any two members thereof shall constitute a quorum for the transaction of business. All proceedings had and done by the board of directors must be reduced to writing by the Secretary and recorded in a substantial bound book and true copies of its proceedings shall be certified to by its President and attested by the Secretary of the corporation and such certified copies shall be received in all courts as prima facie evidence of the matters and things therein certified.

Section 10. The corporation shall be authorized and it shall

be its duty to take such steps as may be necessary to free the highways in Alabama of toll bridges within the limitations imposed upon it by this Act. Any bridge acquired by said corporation by purchase, condemnation or otherwise shall be forthwith conveyed to the State of Alabama. Whenever the corporation shall institute a condemnation proceeding, the Attorney General and Circuit Solicitor in each case shall act as attorney for the corporation without additional compensation.

**Section 11. DEPOSIT OF PROCEEDS.** The proceeds of all notes, bonds or other securities issued by the corporation shall be turned into the State Treasurer and shall be carried in a special bridge account to the credit of the corporation, and shall be subject to be drawn on by the corporation upon the approval of the Governor, but solely for the purpose of freeing the highways in Alabama of toll bridges or for payment of expenses connected therewith.

**Section 12. DISSOLUTION.** Any corporation under this Act may be dissolved by the applicants or their successors filing with the Secretary of State a written application for the dissolution of said corporation which shall state in substance that the corporation has accomplished its purpose and has no outstanding obligations or liabilities. Upon the filing of said application properly subscribed and sworn to the corporation shall cease and all its property rights shall pass to the State of Alabama. The Secretary of State shall record the application for dissolution and shall make and issue under the seal of the State his certificate that the corporation is dissolved and shall record the certificate with the application for dissolution.

**Section 13. SUCCESSION.** Should any officer die, or his term of office expire before the dissolution of the corporation, his successor in office shall take his place as a member of said corporation.

**Section 14. REVENUE.** For the purpose of providing funds to enable the corporation to accomplish the purpose and object of its creation, there is hereby appropriated such amount of money as may be necessary out of the residue of the receipts of the gasoline tax collected by the State under the excise gasoline tax Act approved July 25, 1927, and known as the Gasoline Tax Act of 1927 after there has been taken from that fund the amount necessary to meet all the primary purposes to which said gasoline tax is pledged under Article XXA as an Amendment to the Constitution of the State of Alabama, and as provided for in Section 10 of the Act approved January 25, 1927, and if the proceeds in said gasoline tax, after paying the amount necessary to take care of the primary purposes for which it is pledged are insufficient to pay the interest and principal of the authorized bonds of the cor-

poration, there is hereby appropriated so much of the residue of the gasoline tax collected by the State for State purposes under the excise Gasoline Tax Act approved January 31, 1935, known as the Gasoline Tax Act of 1935 as may be necessary and in addition, the State Highway Commission, with the approval of the Governor, is authorized to pay or pledge to said corporation from time to time such other sums out of revenue at its disposal, as the Governor may approve, for paying interest and principal on bonds issued by said corporation, which monies shall constitute a sinking fund for the purpose of paying such bonds and the interest thereon.

Section 15. Any bridge acquired by the corporation shall thereafter be operated free from toll as a part of the Highway System of Alabama.

Section 16. If any section, clause, provision or paragraph of this Act is declared unconstitutional, null or void, it shall not affect the remaining sections, clauses, provisions or paragraphs.

Section 17. This Act shall become effective immediately upon approval of the Governor and all laws and parts of laws in conflict herewith are hereby specially repealed.

Approved September 7, 1935.

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No. 367)

(H. 868—Owen (Etowah))

### AN ACT

To provide that all cities in this State having a population of not less than 24,000 and not more than 40,000 according to the last or any future Federal census may levy a license tax of not exceeding Two Cents per gallon on all gasoline or other motor fuel sold in such city.

*Be it enacted by the Legislature of Alabama:*

Section 1. That from and after the passage of this Act all cities in this state having a population of not less than 24,000 and not more than 40,000, according to the last Federal census or that may have such population according to any future Federal census, may by appropriate ordinance levy and collect a license tax of not exceeding two cents per gallon on all gasoline or other motor fuel sold in such city for municipal purposes, and such city shall not be permitted to levy such tax in excess of two cents per gallon for any purpose.

Section 2. Be it further enacted, that all laws and parts of laws in conflict with the provisions of this Act be and the same are hereby repealed.

Approved September 9, 1935.

No. 370)

(H. 506—Dominick.

## AN ACT

To amend Section 9257 of the Code of Alabama of 1923, regarding printing and publication of legal advertisements.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That Section 9257 of the Code of Alabama of 1923 be amended so as to read as follows: Section 9257. DESIGNATION OF NEWSPAPER AND REGULATIONS REGARDING PRINTING AND PUBLISHING OF LEGAL ADVERTISEMENTS.—The party in interest, or at whose instance the publication of notice is to be given by advertisement in a newspaper, may designate the newspaper in which such advertisement shall be made. If the officer charged with the duty of making the advertisement disregards such designation, and makes advertisement in some other paper, he must pay the costs thereof, and shall not be entitled to reimbursement; but all publications required by any law or mortgage or other contract to be published in a newspaper must be printed in whole or in part and published in the county in which the advertisement is published and must be published in a newspaper printed in the English language which has a general circulation in the county in which it is published, which newspaper shall have been mailed under the second class mailing privilege of the United States Post Office Department from the post office where it is published for fifty two (52) consecutive weeks. Provided, that if there is no newspaper printing plant in the county where the advertisement is published, the printing may be done in another county in the State of Alabama.

Approved September 7, 1935.

No. 372)

(H. 896—Taylor

## AN ACT

To adopt for the State of Alabama the provisions of the Wagner-Peyser Act; to designate the State Department of Labor, when created, as the agency of the State for the purposes of such act and to make an appropriation therefor.

*Be it enacted by the Legislature of Alabama:*

Section 1. The State of Alabama accepts the provisions of the Wagner-Peyser Act, approved June 6, 1933 (48 Stat. 113, United States Code, Title 29, Section 49), "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and

for other purposes," in conformity with Section 4 thereof, and will observe and comply with the requirements of said Act.

Section 2. The State Department of Labor is hereby designated and constituted the agency of the State of Alabama for the purposes of such Act. Said Department, its officers and employees are hereby given full power to cooperate with all authorities of the United States having powers or duties under such Act and to do and perform all things necessary to secure to the State of Alabama the benefits of such Act in the promotion and maintenance of a system of public employment offices.

Section 3. The Commissioner of Labor, in accordance with the regulations prescribed by the Director of the United States Employment Service, shall appoint the officers and other employees of the Alabama State Employment Service created under this Act.

Section 4. All Federal Funds made available to this State under said Act of Congress shall be paid into the General Treasury of this State, and said Funds are hereby appropriated and made available to the State Department of Labor to be expended as provided by said Act of Congress and this Act.

Section 5. That the sum of \$20,000.00, or so much thereof as may be necessary, is hereby appropriated out of any monies in the General Treasury, not otherwise appropriated, for the carrying out of the purposes of this Act. Said appropriation to be payable only on approval and order of the Governor.

Section 6. This Act shall take effect immediately upon its passage and approval by the Governor.

Approved September 11, 1935.

No. 373)

(H. 249—Harrison.

### AN ACT

To make appropriations for the ordinary expenses of the Executive, Legislative, and Judicial Departments of the State, for the interest on the public debt, and for the public schools.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That there is hereby appropriated for the ordinary expenses of the Executive, Legislative and Judicial Departments of the State, for the interest on the public debt, and for the public schools, for each of the four fiscal years ending respectively September 30, 1936, 1937, 1938 and 1939, to be paid out of any moneys in the Treasury not otherwise appropriated, the several sums of money hereinafter specified or so much thereof as may be necessary: I. LEGISLATURE: \$\_\_\_\_\_; \$\_\_\_\_\_. II.

EXECUTIVE AND ADMINISTRATIVE: 1. Governor's Office: For Compensation of Governor \$6,000.00; other salaries \$8,600.00; other expenses \$5,400.00—\$20,000.00. 2. Governor's Contingent Fund \$25,000.00. 3. Auditor's Office: For compensation of Auditor \$3,600.00; other salaries \$6,600.00; Supplies and Materials \$762.50; Postage, Telephone and Telegraph \$400.00; Printing and Binding \$950.00; Insurance and Bonding \$87.50; Office Equipment \$100.00—\$12,500.00. 4. Treasurer's Office: For compensation of Treasurer \$3,600.00; Other Salaries \$11,100.00; Supplies and Materials \$1000.00; Postage, Telephone and Telegraph \$938.00; Printing and Binding \$1,200.00; Insurance and Bonding \$662.00; Office Equipment \$1,500.00—\$20,000.00. 5. Secretary of State: For compensation of Secretary of State \$3,600.00; Other Salaries \$6,300.00; Supplies and Materials \$500.00; Postage, telephone and telegraph \$500.00; Printing and Binding \$4,600.00; Insurance and Bonding \$37.50; Office Equipment \$462.50—\$16,000.00. 6. Attorney General: For compensation of Attorney General \$4,000.00; Other Salaries \$21,500.00; Supplies and Materials \$500.00; Postage, Telephone and Telegraph \$1,000.00; Printing and Binding \$3,000.00; Travel Expense \$2,000.00; General Expenses \$2,400.00; Insurance and Bonding \$100.00; Office Equipment \$500.00—\$35,000.00. In addition to the amounts appropriated above there is hereby appropriated the further sum of seventy five hundred (\$7,500.00), to be known as an emergency fund, to be used by the Attorney for such lawful purposes as he may deem wise and proper, and for emergencies and contingencies which may arise from time to time. 7. State Comptroller (Including Examiners of Accounts): For compensation of State Comptroller \$3,600.00; Other Salaries \$74,700.00; Supplies and Materials \$3,400.00; Postage, Telephone and Telegraph \$1,200.00; Printing and Binding \$3,000.00; Travel Expense \$32,400.00; Insurance and Bonding \$400.00; Office Equipment \$1,500.00—\$120,200.00. Provided, however, that the provisions of this Section shall not be construed to affect in any manner the provisions of H.B. 255, approved July 10, 1935, and Further provided that all monies paid by counties as their pro rata share of expenses of examination, audit or examination, as is provided by law, shall be a revolving fund for the use and benefit of the office of the State Comptroller; and that the same may be expended for the purpose provided by law at the discretion of the State Comptroller with the approval of the Governor. 8. State Tax Commission: For compensation of three Commissioners at \$3,600.00, and Secretary—\$12,900.00; Other Salaries \$120,000.00; Supplies and Material \$1,800.00; Postage, Telephone and Telegraph \$2,000.00; Printing and Binding \$1,800.00; Travel Expense \$10,200.00; General Expense \$600.00; Insurance and Bonding \$200.00; Office Equipment \$500.00—\$150,000.00. 9. Archives and History: For compensa-

tion of Director \$2,700.00; Other Salaries \$9,600.00; Supplies & Materials \$652.00; Postage, Telephone & Telegraph \$400.00; Printing & Binding \$191.00; Travel Expense \$500.00; Books, Periodicals and subscriptions, \$1,200.00; Filing Equipment \$1,250.00—\$16,493.00. 10. Miscellaneous: Advertising Land for taxes \$20,000.00; Distributing Public Documents \$1,000.00; Governor's Emergency Appropriations \$100,000.00; III. JUDICIAL. 1. Supreme Court: For compensation of the Chief Justice \$5,000.00; For compensation of six Justices @ \$5,000.00—\$30,000.00; Other Salaries \$18,570.00; Supplies & Materials \$600.00; Postage, Telephone & Telegraph \$310.00; Printing & Binding \$2,700.00; Insurance & Bonding, \$20.00; Equipment \$300.00—\$57,500.00. 2. Court of Appeals: For Compensation of Presiding Judge \$4,500.00; For compensation of two Associate Judges @ \$4,500.00—\$9,000.00; Other Salaries \$5,400.00; Supplies & Materials \$190.00; Postage, Telephone & Telegraph \$162.50; Printing & Binding \$1,735.00; Insurance & Bonding \$12.50—\$21,000.00. 3. Circuit Judges: For compensation of 41 Circuit Judges @ \$4,000.00—\$164,000.00. 4. Circuit Solicitors: For compensation of 23 Circuit Solicitors @ \$3,000.00—\$69,000.00; For compensation of the Solicitor of the Bessemer Division, 10th Judicial Circuit \$1,500.00; For compensation of Deputy Solicitors: Bessemer Division, 10th Judicial circuit \$900.00; 1st Deputy, 10th Judicial Circuit \$2,100.00; 2nd Deputy, 10th Judicial Circuit \$1,500.00; 3rd Deputy, 10th Judicial Circuit \$1,500.00; Deputy, 15th Judicial Circuit \$1,080.00—\$77,580.00. 5. Special Judiciary: Salaries and Travel Expense \$3,000.00. IV. ELECTIONS: 1. Registration of Voters: For the year 1936, \$55,000.00; For the year 1937, \$6,375.00; For the year 1938, \$55,000.00; For the year 1939, \$6,375.00. V. MAINTENANCE AND REPAIR OF GENERAL GOVERNMENT BUILDINGS: 1. Salaries (Watchman, Servants, etc) \$6,825.00; Supplies \$6,000.00; Telephone Exchange \$3,200.00; Light, power, heat and water \$12,500.00; Maintenance and alterations Capitol buildings and grounds, \$20,000.00; Insurance, \$6,000.00; For maintenance and repairs of Governor's Mansion,—\$1,000.00 for each of the fiscal years ending September 30th., 1936-37-38, and for light, heat, service, and other expenses incident thereto the sum of \$100.00 for each and every month, of the fiscal years ending September 30th., 1936-37-38, payable on requisition of the Governor. Rental of Offices \$1,000.00—\$57,725.00. VI. LAW ENFORCEMENT: 1. Military Department Salaries and Wages \$15,575.00; Supplies and Materials \$1,000.00; Postage, Telephone, Telegraph and Express \$1,500.00; Travel Expenses (other than State-owned vehicles) \$1,800.00; Printing and Binding \$200.00; Motor Vehicle Operation (State-owned) \$1000.00; Quarterly Unit Allowances \$51,575.00; Armory Service Allowances \$5,000.00; Maintenance Rifle Ranges \$1,500.00; Bond Premiums \$600.00; Annual Camps of Instruction and Super-

vision \$2,650.00; National Rifle Matches \$1,000.00—\$83,400.00. 2. In addition to the monies otherwise appropriated, there is appropriated out of the monies not otherwise appropriated, such sum as may be necessary to pay, subsistence, shelter, travel, and other necessary expenses of troops called into the active military service of the State for the purpose of enforcing the law, preservation of peace, for the security of lives of citizens, for relief and aid in case of disaster, for the protection of property, or other service ordered by the Commander-in-Chief. The disbursement of all funds appropriated by this Act shall be with the approval of the Governor.

**VII. BUSINESS REGULATION:** 1. Insurance Department: For Compensation of Superintendent of Insurance \$3,600.00; Other Salaries \$7,640.00; Supplies & Materials \$200.00; Postage, Telephone & Telegraph \$1,050.00; Printing & Binding \$4,000.00; Travel Expense \$275.00; General Expense \$4,125.00; Insurance & Bonding \$138.00; Office Equipment \$500.00—\$21,528.00. 2. Banking Department: For compensation of Superintendent of Banks \$3,000.00; Other Salaries \$18,000.00; Supplies & Materials \$800.00; Postage, Telephone & Telegraph \$900.00; Printing & Binding \$350.00; Travel Expense \$4,800.00; Insurance & Bonding \$600.00; General Expense \$50.00—\$29,100.00. 3. State Securities Commission: For salaries (not including salaries of Commissioners) and expenses of State Securities Commission, all fees or monies paid or payable by every person as defined in the Alabama Securities Act for any and all purposes as required by said Act, which said fees are hereby set apart and shall be available and applied to payment of such salaries and expenses. 4. Department of Agriculture & Industries: For salary of Commissioner of Agriculture and Industries and for personal services and other expenses operating the Department of Agriculture and Industries, the Agricultural Fund in accordance with the provisions of the Agricultural Code of Alabama. Provided, however, that said Department shall only expend the monies in such fund as provided in said Agricultural Code of 1927. 5. Alabama Real Estate Commission: For Compensation of Commissioners and for personal services and other expenses incident to the duties of the Commission, the Alabama Real Estate Fund in accordance with the provisions of Act No. 344, approved August 27, 1927. 6. Alabama Public Service Commission: For Compensation of the President of the Commission, For Compensation of Two Associate Commissioners, Other Salaries, Supplies and Materials, Postage, telephone and telegraph, Traveling Expenses, General Expenses, Insurance and Bonding, Office Equipment—\$100,000.00. Provided, that the appropriation to the Alabama Public Service Commission shall be payable only out of inspection and supervision fees paid by utilities and transportation companies, and such parts or percentages of the fees and taxes paid by motor carriers or motor transportation companies



as are now or may be set aside by law to be used by the Commission, but if said fees and taxes do not equal the total amount of \$100,000.00, there shall not be paid out of the General Fund of the State any amount, but the appropriation for all said salaries and expenses of the Commission, and its employees in such event shall be limited to the total amount of all said fees and taxes assigned to the Commission's said appropriation. In consideration of the fact that inspection and supervision fees of utilities and transportation companies, constituting the greater part of the funds made available for the salaries and expenses of the Commission and its employees, are payable on the calendar year basis, and are payable on February first of each year, the State Treasurer shall hold in the State Treasury at the end of each fiscal year on September 30th as much as \$33,333.33, or such part of said sum of \$33,333.33, out of such fees and taxes assigned to this appropriation for the Commission, as may be on hand, and the same shall be paid out by the State Treasurer as provided by law for all such salaries and expenses of the Commission and its employees during the months of October, November, December and January. Upon the close of business at the end of each fiscal year of the State, if the balance of the amount of such fees and taxes assigned to provide such appropriation for the Commission, then on hand in the State Treasury, exceeds said sum of \$33,333.33, such excess shall go into the General Fund of the State.

7. Mining Department: For compensation of Chief Mine Inspector \$2,800.00; Other Salaries \$17,000.00; Supplies and Materials \$200.00; Postage, Telephone and Telegraph \$480.00; Travel Expense \$2,400.00; Printing and Binding \$150.00; Motor Vehicle Expense \$250.00; Rent, lights, heat and water \$918.00—\$24,198.00.

VIII. CONSERVATION OF HEALTH AND SANITATION: 1. State Health Department. (1) For salary of State Health Officer, \$3,600.00 for every year; (2) For other personal services \$193,500.00 for every year; (3) For other expenses including County Health Work \$202,900.00. Provided, however, that whatever sum or sums of money that may be appropriated by the Federal Government under what is known as the Social Security Bill, and received by the Health Department of the State of Alabama, shall be deducted from the appropriation herein made. (2) Pasteur Treatments: For Pasteur Treatments \$30,000.00; 3. State Serum Plant: Salaries and other expenses \$3,000.00—\$3,000.00; 4. State Service Commission: For compensation of Commissioner \$2,400.00; Other Salaries \$8,000.00; Supplies and materials \$250.00; Postage, Telephone and Telegraph \$400.00; Printing and Binding \$60.00; Travel Expense \$250.00; Insurance and Bonding \$10.00; Rent, lights, heat and water \$630.00—\$12,000.00.

IX. DEVELOPMENT AND CONSERVATION OF NATURAL RESOURCES: 1. Game and Fish Department: For salary of Commissioner and for personal services and other

expenses incident to the operation of the Game and Fish Department, the Game and Fish Fund in accordance with the provisions of Act No. 62, approved October 7, 1932. 2. Geological Survey: The compensation of the State Geologist, \$3,000.00; Other salaries and expenses of the Geological Survey \$31,400.00—\$34,400.00. 3. Oyster Protection: For personal services and other expenses incident to the preservation, development and improvement of the State's oysters and oyster beds, the Oyster Protection Fund in accordance with Act. No. 504, approved October 1, 1923. 4. Forestry Commission: For salary of Commissioner and for personal services and other expenses incident to the operation of the Forestry Department, the Forestry Fund as provided by Section 1005 of the Code of Alabama, 1923. X. CHARITIES, HOSPITALS AND CORRECTIONS: 1. Child Welfare Bureau. For compensation of the Director \$3,000.00; other salaries \$35,700.00; supplies and materials \$350.00; postage, telephone and telegraph \$1,650.00; printing and binding \$1,000.00; travel expenses \$8,150.00; motor vehicle expenses \$1,440.00; general expense \$40.00; insurance and bonding \$20.00; office equipment \$350.00; care of juvenile wards \$32,300.00; Total \$84,000.00. This appropriation shall be paid out upon the requisition of the Director of the Bureau with the approval of the Commissioner and of the Governor as Chairman of the Board of Public Welfare. 2. Convict Department: There is hereby appropriated to the State Board of Administration for the payment of the salaries of the Director and for other personal services and expenses incident to the operation and maintenance of the Convict System of Alabama all receipts from its administration and operation of the convicts; and in addition thereto there is hereby appropriated to the said Board of Administration for such purposes such additional sum as shall be needed for the proper administration, operation and maintenance of the Convict Department not to exceed the sum of \$350,000.00; For the payment of Criminal Court Costs \$150,000.00—\$500,000.00. State Institutions: 3. Alabama Reform School for Negroes \$40,000.00. 4. Alabama Insane Hospitals: For the support, maintenance and repairs of the Alabama Insane Hospital, an amount not to exceed \$4.00 per week nor be less than \$3.00 per week for each patient. Estimated—\$975,000.00. 5. Alabama Boys Industrial School: There is hereby appropriated out of the general fund of the State of Alabama for the maintenance, support, insurance and upkeep of the Alabama Boys Industrial School, the sum of One Hundred Thousand Dollars annually, to be drawn quarterly in advance by the Treasurer of the Board of the Alabama Boys Industrial School and to be disbursed as directed by said Board. Any balance from this appropriation at the end of each year shall remain in the hands of the Treasurer of said institution and shall not revert to the State—\$100,000.00. There is further appropriated the sum of

\$8,000.00 to the Alabama Boys Industrial School as a refund for money expended by the School Board in purchase of land subsequently deeded to the State of Alabama, subject to the approval of the Governor. 6. Partlow State School: For the support, maintenance and repairs of the Partlow State School for mental deficient, a sum not to exceed \$4.00 per week nor to be less than \$3.00 per week for each inmate, and the appropriations herein made to said Alabama Insane Hospital and Partlow State School for mental deficient shall be payable and are to be disbursed as provided in Section 1423 to 1485, inclusive, as amended, of the Code of Alabama of 1923 and the Act entitled "An Act" to provide for the maintenance of the Alabama Home for mental inferiors approved February 3, 1923, and shall continue, and the unexpended balances thereof shall not revert to or to be recovered into the General Treasury of the State of Alabama at the end of any fiscal year. Estimated—\$122,512.00. 7. State Training School for Girls: \$40,000.00 etc., For repairing buildings and purchasing material for same, and removal of school from present site, (to be appropriated for only one year)—\$29,900.00 Twenty nine thousand nine hundred dollars. Miscellaneous: 8. Removing Prisoners \$3,000.00. 9. Feeding Prisoners \$175,000.00. 10. Arrest of Absconding Felons \$1,500.00. 11. Confederate Soldiers' Home \$5,000.00. 12. State Department of Public Welfare \$15,000.00. XI. EDUCATION. 1. Public School Fund: Interest on Endowment \$190,000.00; Additional Appropriation \$500,000.00—\$690,000.00. 2. For compensation of Superintendent of Education, \$3,600.00; For salaries and other purposes. \$95,000.00. 3. Alabama Institute for Deaf and Blind: There is hereby appropriated out of the general fund of the State of Alabama for the maintenance, support, insurance and upkeep of the Alabama institute for the Deaf and Blind, an educational institution which is a division of the Public Schools of Alabama, the sum of \$296.00 per pupil, such appropriation to be based on the number of pupils enrolled on the first day of January of each year, and to be drawn quarterly in advance by the Treasurer of the Board of the Alabama Institute for Deaf and Blind and to be disbursed as directed by said Board. Any balance from this appropriation at the end of each year shall remain in the hands of the Treasurer of said Institution and shall not revert to the State. Estimated \$198,000.00. 4. Alabama College: Interest on Endowment \$34,964.00. 5. Alabama Polytechnic Institute: Interest on Endowment \$20,280.00. 6. University of Alabama: Interest on Endowment, \$61,000.00. 7. Grove Hill Endowment \$600.00. XII. HIGHWAYS AND BRIDGES. 1. (1) For salaries of three Highway Commissioners @ \$3,600.00—\$10,800. (2) For interest and sinking funds on outstanding highway bonds so much of the gasoline taxes and motor vehicle licenses collected, as may be necessary to pay the same. (3) For maintenance and

construction of roads and bridges, and other expenses of the highway department, the rest and residue of gasoline taxes, motor vehicle licenses, and all other revenues coming in or accruing to the Highway Department, by virtue of Federal Aid, Statutes of Alabama, or otherwise. XIII. RECREATION: 1. White House of Confederacy \$2,500.00 2. Confederate Reunion \$1,000.00. 3. Confederate Museum, at Richmond, \$250.00—\$3,750.00. XIV. INTEREST: 1. Old Bonded Debt \$339,720.00. 2. Harbor Improvement Bonds and Warrant Refunding Bonds \$300,000.00—\$639,720.00. Provided that any part of the appropriation for the payment of interest on Harbor Improvement and/or Warrant Refunding Bonds not required for such purpose is hereby appropriated to create a sinking fund for the retirement of the Renewal Class A, Renewal Class C, and Funding Bonds. XV. PENSIONS: 1. There is hereby appropriated such an amount as may be necessary to pay all the pensions allowed to Confederate soldiers and sailors and their widows as now provided by law, payable out of the proceeds from the levy of the one mill tax for needy Confederate soldiers, and sailors the balance if any necessary for the payment thereof to be paid out of any monies in the State Treasury not otherwise appropriated. 2. Pension Commission: Salaries \$2,700.00; Supplies and Material \$100.00; Postage, Telephone & Telegraph \$400.00; Printing and Binding \$500.00; Miscellaneous \$300.00—\$4,000.00. Provided that the expenses of the Pension Commission shall be paid from the Pension Fund. XVI. DEBT PAYMENT: 1. Harbor Improvement Bonds: For the year 1936 \$100,000.00; For the year 1937 \$175,000.00; For the year 1938 \$250,000.00; For the year 1939 \$250,000.00—\$775,000.00. 2. Sinking Fund for Class A Renewal, Class C Renewal and Funding Bonds \$250,000.00. XVII. Except as herein otherwise provided, the amounts herein specifically appropriated shall be in lieu of the amounts heretofore provided or appropriated by law for such purposes; and all laws general, special or private, inconsistent with the provisions of this Act are hereby expressly repealed. XVIII. That except as may be otherwise provided in what is known as and called The Budget and Financial Control Act, nothing herein shall be construed to affect or repeal any law or provision of law under or by which any department is now operated wholly upon any receipts, licenses, fees or revenues, payable to or collected by or for the account of such department; nor shall anything in this Act be construed to affect or repeal any law authorizing or permitting any college, school or other institution of the State from receiving and disbursing any fees, tuition, charges, sales, endowments, trusts or income therefrom, which is now or may hereafter be authorized to collect, receive or disburse. XIX. That the appropriations herein made except appropriations to eleemosynary institutions, or to the school for Deaf and Blind in

Talladega, Alabama, are, and shall be subject to the terms, conditions, provisions and limitations of the Budget and Financial Control Act. XX. That if any section, clause, provisions, or portion of this Act or all or any portion of any appropriations herein made is held to be unconstitutional or invalid, it shall not affect any other section, clause, provisions or portion of this Act, or any other appropriation or portion thereof hereby made, not in and of itself unconstitutional or invalid. XXI. That all laws, and parts of laws, general, special or private, in conflict with the terms and provisions of this Act, be and the same are, hereby repealed. Approved September 6, 1935.

No. 375)

(H. 833—Lusk.

### AN ACT

To permit the governing body of any municipality in this State having a population of not less than 24,000 nor over 60,000, according to the last or any succeeding Federal census, to levy a license tax of three-fourths of one cent per gallon on all gasoline or other motor fuel sold in such municipality and pledge the same to secure bonds or other obligations hereafter issued for building and equipping school buildings therein.

*Be it Enacted by the Legislature of Alabama:*

Section 1. After the passage and approval of this Act, the governing body of any municipality in this State, having a population of not less than 24,000 and not more than 60,000, according to the last Federal census, or any future Federal census, shall have the authority to levy a tax of three-fourths of one cent per gallon on all gasoline or other motor fuel sold in said municipality.

Section 2. The governing body of such municipality may pledge the proceeds of such tax for the payment of the principal and interest of any bonds or other obligations hereafter issued for the building and equipment of school houses for the public schools of said city, including the purchase of necessary ground for such school buildings, and when the tax is so pledged, such municipality shall continue to levy such tax so long as it may be necessary for the payment of the principal and interest of such bonds or other obligations.

Section 3. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

Approved September 7, 1935.

No. 376

(S. 381—Swift)

## AN ACT

To authorize the Judge of Probate, the Tax assessor and the Tax Collector in all counties which now or may hereafter embrace an area of twelve hundred and fifty (1250) or more square miles, where it is necessary or expedient to the efficient conduct of such offices, to employ more help than is allowed by the provisions of House Bill 324, approved July 10, 1935, when such employment is authorized and approved by the Court of County Commissioners or like governing body of such counties, duly entered on the minutes of such Court.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the Judge of Probate, the Tax Assessor and the Tax Collector of all counties of this State which now or may hereafter embrace an area of twelve hundred and fifty (1250) square miles or more, may employ, when it is necessary or convenient to the efficient conduct of such offices, more help than is allowed by the provisions of House Bill 324, approved July 10, 1935, when such employment is authorized and approved by the court of County Commissioners or like governing body of such counties, prior to such employment, and duly entered on the minutes of such court.

Section 2. All laws or parts of laws in conflict herewith are hereby repealed.

Section 3. This Act shall be effective as of October 1, 1935.

Approved September 9, 1935.

No. 377)

(H. 76—DeVANE)

## AN ACT

To make a conditional appropriation for the acquisition of lands to be developed as forests and parks to enable the State to cooperate effectively with the United States Government in its recovery program in Alabama, and to make provision for repayment of said appropriation into the general fund.

WHEREAS the United States Government requires State ownership of the lands upon which improvements and structures furnishing employment to large numbers of workers are projected in the development of State Forests and State parks, and the President and the Congress of the United States have provided Federal funds for the improvement and development of such areas conditional upon the State having title to the lands, and

WHEREAS demonstration forests are required for the purpose of exemplifying to landowners the best means and methods of growing paper pulpwood and other forest products as raw materials for numerous industries to be encouraged to enter and remain in the state, and other areas are required for the preservation of outstanding scenic and recreational sites in the public interest.

*Be it enacted by the Legislature of Alabama:*

Section 1. That out of any funds of the State Treasury not otherwise appropriated there is hereby appropriated for the acquisition of lands by the State Commission of Forestry for the purposes of State Forests and State Parks, by purchase or by condemnation, the sum of twenty-five thousand dollars for each year of the quadrennium beginning October 1, 1935; provided that all receipts accruing from the operation of said forests and parks, over and above the actual costs of protection, maintenance and administration, shall be deposited in the Treasury to the credit of the general fund for the purpose of liquidating the appropriation herein made.

Section 2. That no funds shall be expended under this Act except upon prior approval of the Governor.

Section 3. That this Act shall go into effect immediately upon its approval by the Governor.

Approved September 9, 1935.

No. 378)

(H. 100—Welch

AN ACT

To amend Sections 3886, 3887, 3888 and 3889 of Chapter 122 of the Code of Alabama of 1923.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 3886 of the Code be amended so as to read: 3886.—EXPLODING OR SETTING OFF DYNAMITE. PENALTY FOR.—Any person who wilfully sets off or explodes any dynamite or other explosive in, under or dangerously near to any steam boat or vessel or railroad car in which there is at the time any human being, or any prison or jail or any other house or building which is occupied by a person lodged therein or any inhabited dwelling house or any house adjoining such house whether there is at the time in such house adjoining a dwelling house a human being or not must on conviction be punished at the discretion of the jury by death or by imprisonment in the penitentiary for not less than ten years.

Section 2. That Section 3887 of the Code be amended so as to read: 3887. INDICTMENT—SUFFICIENCY OF.—It shall be sufficient to aver in any indictment for the violation of the provisions of the preceding section as amended in substance as follows: "A. B. Wilfully set off or exploded dynamite or other explosive in, under or dangerously near to the dwelling house of C. D., in which there was at the time a human being."

Section 3. That Section 3888 of the Code be amended so as to read: 3888. SETTING OFF EXPLOSIVES UNDER PUBLIC BUILDING OR UNINHABITED DWELLING.—PENALTY FOR.—Any person who wilfully sets off or explodes any dynamite in, under or dangerously near to any church, meeting house, court house, town house, college, academy, jail or other building erected for public use, or any banking house, warehouse, cotton house, gin house, store, manufactory or mill, or any railroad car, railroad engine, street car or automobile, car shed, barn, stable, cotton house or cotton pen containing cotton, or corn pen containing corn, or any shop or office or other house within the curtilage of any dwelling house or any uninhabited dwelling house or unoccupied dwelling house or steam boat or vessel in which there is at the time no human being must on conviction be punished by imprisonment in the penitentiary for not less than two years or more than 10 years.

Section 4. That Section 3889 of the Code be amended so as to read: 3889. SUFFICIENCY OF INDICTMENT.—It shall be sufficient to aver in any indictment for the violation of the provisions of Section 3888 of the Code as amended in substance as follows: "A. B. wilfully set off or exploded dynamite or other explosive in, under or dangerously near to the uninhabited dwelling house of C. D. in which there was at the time no human being."

Section 5. That all laws and parts of laws in conflict with this act are hereby repealed and this act shall take effect immediately after its passage, the public welfare demanding it.

Approved September 9, 1935. •

No. 379)

H. 191—Lee (Monroe)

#### AN ACT

To better secure the administration of the financial affairs of the Counties of Alabama, and for that purpose and to that end to vest in County Boards of Revenue, County Commissioners, and other like governing bodies by whatever name known, more efficient power and control over all public funds that may now or hereafter be under their management and control; to limit their power and authority to approve and pay claims for current operating expenses in any fiscal year to the income of the county available for such purposes; to prescribe the fiscal year for the purposes of this Act; to provide for the registration of all outstanding general obligations; to more effectively provide for the preparation and adoption of annual budgets; to provide that no warrants or orders for money shall be issued under the authority of such boards until the cash is available for their payment; to provide for a record of the financial status of counties; to provide that temporary loans made under the general laws of the State of Alabama for the purpose of enabling



counties to meet their current obligations shall not exceed 95% of such temporary loans made the preceding year, except for the purpose of meeting emergencies and to provide that in making up a budget the amount borrowed on such temporary loan to be made during each fiscal year shall be included as a part of the operating revenue of the county for such year, and the amount of such temporary loan, principal and interest, payable in each fiscal year shall constitute a part of the operating expenses to be included in the budget of the county for the fiscal year in which such loans are payable, and shall be paid out of the funds pledged therefor; to provide that this Act shall be effective on and after the first day of October, 1935; and to repeal all laws except local laws, in conflict with the Act. Provided, the Act shall not apply to counties having more than 95,000 population.

*Be it Enacted by the Legislature of Alabama:*

Section 1.—TITLE OF ACT. This Act shall be known and may be cited as the County Financial Control Act.

Section 2.—PURPOSE. It is the purpose of this Act to vest in Boards of Revenue, County Commissioners and other similar governing bodies in the various Counties, by whatever name they may bear, more efficient power and control over all public funds that may now or hereafter be under their management and control; and to limit their powers and authority to incur obligations and to approve and pay claims for current operating expenses in any fiscal year to the income of such year available for such purposes. And to authorize the refunding of outstanding general obligations, other than bonded indebtedness, so that the provisions of this Act may be put into effective operation.

Section 3.—ANNUAL BUDGETS. It shall be the duty of the Board of Revenue, County Commissioners or other similar governing body of the Counties, by whatever name they bear, at some meeting in September of each calendar year, or not later than their first meeting in October following, to prepare and adopt an estimate of the income of the County for the fiscal year beginning on October first of the current calendar year, for what is known as the general fund, under their supervision and control; and to estimate for the same fiscal year the expense of operations, and to appropriate for the various purposes the respective amounts that are to be used for each of such purposes. Provided, the appropriations so made shall not exceed the estimated total income of the County available for appropriations. In order that such estimate of income and operating expenses may be as nearly correct as possible the Board of Revenue, County Commissioners or other like governing body shall call upon any public official who handles any incoming monies, or who issues any kind of order payable out of the county treasury without approval of such Board of Revenue, County Commissioners or other like governing body to furnish them in writing an estimate of such income and of the probable amount of orders they will be called upon to issue during

such fiscal year, and it shall be the duty of such official to furnish such estimates without delay.

Section 4.—**PAYMENT OF REFUNDED DEBTS.** And where Counties issue refunding warrants in lieu of obligations outstanding at the time this Act becomes effective the interest on such outstanding warrants, together with the principal thereof maturing in any fiscal year, shall constitute a part of the current operating budget of such county for that fiscal year, and be paid out of funds available in such year for operating purposes, unless funds are provided otherwise for such payments.

Section 5.—**WHO SHALL ISSUE WARRANTS.** No warrant shall be issued or check drawn on the County Treasury or County Depository by any person except the Judge of Probate or Chairman of the Board of Revenue, or like governing body, or such other officer as may be designated by such Board; and officers who are authorized to pay claims which have not been first approved by the Board, shall issue orders for warrants or checks which must be presented to the officer so authorized to issue warrants payable out of the County Treasury or County Depository.

Section 6.—**DISPOSITION OF BALANCES.** At the end of every fiscal year any unexpended balances, remaining in the general funds set up under the provisions of this Act shall go forward into the general fund of the succeeding year; and such balance or balances shall constitute a part of the income available for such fiscal year, and be handled, appropriated and disbursed as any other income for that year.

Section 7.—**NO WARRANTS ISSUED UNTIL CASH IS AVAILABLE.** No warrant or order for money shall be issued in pursuance of authority of the Board of Revenue, County Commissioners or other like governing body until funds are available for its payment upon presentation to the Treasurer or depository. It shall be the duty of the Board of Revenue, County Commissioners or other like governing body, to provide and appropriate funds for paying warrants issued upon orders drawn by other county officials in pursuance of law, which orders are not required by law to be approved and authorized by such Board.

Section 8.—**RECORD OF FINANCIAL STATUS.** The Boards of Revenue, County Commissioners and other like governing bodies of the counties shall provide for a record of the financial status of the respective counties to be made up and kept in suitable form for the purpose, which said record shall be available to the public at all reasonable times for examination and information. This record shall be kept up to date at all times and reflect the true status of all outstanding obligations of the county, and the estimated income for the current fiscal year. Provided, however, that orders issued by county officers authorized to issue them without the approval and authority of Boards of Revenue,

County Commissioners and other like governing bodies, must be presented to the officer authorized to issue warrants therefor without the approval of said governing body of the county.

Section 8-½.—WHO SHALL KEEP SUCH RECORD. The record provided for in the next preceding section shall be kept under direction of the Judge of Probate, or the Chairman of the Board, whose duty it shall be to keep this record up to date at all times, and to perform any other duties with reference to accounting, auditing claims, issuing warrants, and supplying such Board with information, as they may deem necessary for the administration of the financial affairs of the County; provided that the Board of Revenue, Court of County Commissioners, or other governing body shall provide for the payment of reasonable compensation for the work of keeping this record.

Section 9.—SHALL REFUND OUTSTANDING WARRANTS. It shall be the duty of all Boards of Revenue, County Commissioners and other like governing bodies of the counties to refund all warrants, which are unpaid and past due at the time this Act goes into effect, and for which there is no money available at that time. Refunding warrants may be sold at not less than par and the money used to pay the owners of old warrants or they may be exchanged for old warrants upon any practicable plan such Boards may fix; provided, that refunding warrants may not be issued for amounts greater than the old warrants, plus any interest that may have legally accrued on such old warrants as bear interest themselves. Such refunding warrants may be issued under the law now in force, except that they may be made to mature annually over a period not exceeding twenty years. In the issuance of such refunding warrants care should be exercised to avoid favoritism in the matter of maturities. With the consent of the holders thereof, any county may refund, under the provisions of this Act, temporary loans outstanding when this Act goes into effect made in anticipation of the collection of taxes for the time and under the conditions and terms provided herein for the refunding of outstanding warrants.

Section 10.—REGISTRATION OF OLD WARRANTS. The Board of Revenue, County Commissioners or other like governing body, shall by notice published in some newspaper published in the county, if any, and if not then in some newspaper published in an adjoining county, call in for registration anew all warrants and certificates of indebtedness payable out of the general fund, other than bonds, which are past due and remain unpaid at the time this Act becomes effective. Such warrants and certificates shall be filed with the County Treasurer, the county depository, or with such other bonded officer as may be designated in the notice. The notice to be published for three consecutive weeks. All such warrants or certificates shall be deposited with the officer

so designated not later than six months after this Act becomes effective, and such officer shall give the owner thereof an appropriate receipt for the same. Such warrants and certificates shall be held by such officer for the purpose of surrender to the proper authority, and shall be surrendered in exchange for cash or for refunding certificates of indebtedness contemplated by this Act, in the discretion of said Board. Such officer shall then make prompt settlement with the owners of the warrants, or turn over to such owners refunding warrants. It is the purpose of this Act to provide that said old warrants or certificates shall be refunded and settlement made with the owner in cash if practicable, and if not then in refunding warrants, as early after the expiration of said six months after the Act becomes effective as may be reasonably and fairly done.

**Section 11. TEMPORARY LOANS.** Nothing in this Act shall be construed to repeal the general laws of the State of Alabama authorizing counties to make temporary loans in anticipation of collection of taxes; provided, however, that hereafter no temporary loan or loans in anticipation of the collection of taxes made for the purpose of enabling counties to meet their current obligations shall exceed 95% of the amount of such temporary loans made during the preceding fiscal year, except that to meet emergencies provided for in Section 17 hereof, temporary loans in anticipation of collection of taxes may be made up to the full amount provided for under the general laws of the State of Alabama; and in making up the budget provided for under this Act the amount borrowed on temporary loans in anticipation of the collection of taxes to be made during each fiscal year shall be included as a part of the operating revenue of the county for such year; and the amount of such temporary loan, principal and interest, payable in each fiscal year, shall constitute a part of the current operating expenses to be included in the budget of the county for the fiscal year in which such loans are payable, and shall be paid out of the funds pledged therefor.

**Section 12.—DOES NOT APPLY TO BONDS.** The provisions of this Act shall not apply to county bonds now outstanding or that may be hereafter issued under authority of law.

**Section 13.—DOES NOT APPLY TO SCHOOL FUNDS.** The provisions of this Act shall not apply to public school funds administered by county Boards of Education, by whatever name they may bear.

**Section 14.—OFFICE SUPPLIES AND EX-OFFICIO FEES.** It shall be the duty of every County official who is authorized by law to purchase supplies for the use of his office, and every County Official who is entitled under the law to receive from the county what is known as ex-officio fees, to prepare and submit to the

Board of Revenue, County Commissioners, or other like governing body, at or before the meeting of such Board at which the county Budget is adopted, an estimate of the amount necessary to be spent by him for office supplies, and the amount estimated by such official as will be due such officer as Ex-Officio fees, during the following fiscal year. And such Board of Revenue, County Commissioners or other like governing body shall examine into such estimates and pass upon them, allowing therefor such amounts as to such board may seem to be proper for the purpose, or purposes mentioned herein. And no obligation incurred by such officer over and above the amount or amounts approved by such Board and appropriated therefor shall be an obligation of the County.

**Section 15.—OTHER OFFICERS AND EMPLOYEES.** Nothing herein shall be construed to limit the authority of Boards of Revenue, County Commissioners and other like governing bodies to appoint any other officers or employees they may be authorized by law to appoint or employ.

**Section 16.—INTERPRETATION.** If any section, clause or sentence of this Act should be held to be unconstitutional it shall not affect the validity of any of the remainder of the Act.

**Section 17.—EMERGENCIES.** In the event any situation over which the Board of Revenue, County Commissioners or other like governing body has no control results in an appreciable obligation against the county over and above what said Board has reason to anticipate, and for which no moneys from the current year's income are available to pay, such board may issue its interest bearing warrants, as now authorized by law, in an amount sufficient to pay such emergency obligation. And the interest and maturities or principal of such loans shall constitute a part of the budget for the year in which they mature. But before such warrants shall be authorized or sold under this Section, such Board shall inquire into and find that such emergency obligation has accrued, and such finding spread upon the minutes of its proceedings.

**Section 18.—FISCAL YEAR.** For the purposes of this Act the fiscal year shall begin October first, and shall end of September thirtieth following.

**Section 19.—REPEALS CONFLICTING LAWS.** All laws and parts of laws, except local acts applying to single counties, conflicting with any of the provisions of this Act be and they hereby are repealed.

**Section 20.—EFFECTIVE DATE OF ACT.**—This Act shall be effective on and after the first day of October, 1935.

**Section 21.—COUNTIES EXCLUDED.** The provisions of this Act shall not apply to any counties having a population of

more than 95,000, according to the last and any subsequent Federal Census.

Approved September 9, 1935.

No. 380)

(H. 241—Harrison)

### AN ACT

To appropriate the monies now in the Treasury to the credit of the Royalties and Rentals Federal Mining Leases Fund, and to provide for the disposition of future receipts from the Federal Government.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the monies heretofore received from the Federal Government, now in the State Treasury to the credit of the Royalties and Rentals Federal Mining Leases Fund, are hereby appropriated to and made a part of the Public School Fund. The State Comptroller is directed to transfer the funds in accordance with this act.

Section 2. That any sums of money that may hereafter be received from the Federal Government on account of royalties and rentals from Federal Mining Leases are hereby appropriated to the Public School Fund.

Section 3. That all laws and parts of laws in conflict with this Act be and the same are hereby repealed.

Section 4. This Act shall take effect upon approval by the Governor.

Approved September 9, 1935.

No. 381)

(H. 268—Matthews (Wilcox))

### AN ACT

To authorize and provide for the payment of the sum of Two Hundred Ten Dollars (\$210.00) for the relief of Mrs. Mary McG. Kelly of Wilcox County, Alabama who was entitled to an increase in pension for the April 1st 1933 quarter, had she filed her reclassification pension application when she reached the age of eighty years.

WHEREAS Mrs. Mary McG. Kelly, the widow of a Confederate veteran, would be entitled to the difference in first and second class pension for the quarters beginning April 1st 1933, and ending December 21st 1934, at Thirty Dollars (\$30.00) per quarter, amounting to a total of Two Hundred Ten Dollars (\$210.00); and

WHEREAS the said Mrs. Mary McG. Kelly, failed to receive the difference of Two Hundred Ten Dollars (\$210.00) only because of her failure to file her reclassification pension application, when she reached the age of Eighty years.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the State Comptroller be and is hereby authorized and directed to issue his warrant on the State Treasurer in

favor of the said Mrs. Mary McG Kelly, for the sum of Two Hundred Ten Dollars (\$210.00), which shall be paid by the said Treasurer out of any funds in the State Treasury to the credit of Confederate Veterans Pensions.

Approved September 9, 1935.

No. 382)

(H. 331—Staples

### AN ACT

To Submit To The Qualified Voters Of This State, At An Election To Be Held On The First Tuesday After The Expiration Of Three Months After The Final Adjournment Of The Present Session Of The Legislature Of Alabama, For Their Consideration An Amendment To The Constitution Of The State Empowering The Legislature To Authorize Mobile County To Issue Bonds From Time To Time, Not Exceeding In The Aggregate \$1,600,000.00, Which Bonds, Or The Proceeds Thereof, Shall Be Used Exclusively For Paying Valid And Enforceable Unbonded Obligations Of Mobile County, And Unbonded Obligations Of Mobile County Which Would Be Valid And Enforceable But For The Provision Or Provisions Of The Constitution Of Alabama Of 1901 Fixing The Debt Limit Of Said County, And All Past Due Interest And Principal On Any Valid And Enforceable Bonded Obligations Of Said County, Existing On September 30th, 1936; Providing For The Adoption Of An Annual Budget For Mobile County; Providing That The Expenses Of Such County For Any Fiscal Year Shall Not Exceed The Revenues Of The County For That Year, And Providing That All Debts Contracted Or Liabilities Incurred By The Said County In Excess Of Such Revenues Shall Be Void; Providing That The Governing Body Of Mobile County May, During Any Such Fiscal Year, Borrow Additional Money To The Extent Of Twenty-Five Per Cent (25%) Of The General Revenues Of Such County For The Preceding Fiscal Year, And Pledge To Secure The Payment Thereof The General Revenues Of The County For Such Current Fiscal Year Only, Such Loans To Be Paid Within That Fiscal Year Or From The Pledged General Revenues Of The County Subsequently Collected For That Year, And That Any Loan So Made And Not Paid Out Of The General Revenues Of The County Pledged To Secure The Same Shall Be Void As To Any Amount Remaining Unpaid; Providing That The Legislature Shall Not, After The Adoption Of Such Amendment, Pass Any Law Making Any Claim A Preferred Claim Against Said County, And Annuling As To Any Future Claim All Laws, Or Parts Of Laws, Now In Force And Effect, Making A Claim A Preferred Claim Against Said County: And Providing Penalties For The Violation Of Any Of The Provisions Of Such Amendment."

*Be it enacted by the Legislature of Alabama:*

Section 1. That the following amendment to the Constitution of Alabama is hereby proposed to be submitted to the qualified voters of Alabama for their consideration as hereinafter set forth, namely: The Legislature of Alabama may authorize Mobile County to issue bonds from time to time, not exceeding in the aggregate \$1,600,000.00, which bonds, or the proceeds thereof, shall be used

exclusively for paying valid and enforceable unbonded obligations of Mobile County, and unbonded obligations of Mobile County which would be valid and enforceable but for the provision or provisions of the Constitution of Alabama of 1901 fixing the debt limit of said County, and all past due interest and principal on any valid and enforceable bonded obligations of said County, existing on September 30th, 1936. In September of each year after the adoption of this amendment to the Constitution, the governing body of Mobile County shall adopt a budget based on 95 per cent of the gross receipts of the general fund of the preceding year for the succeeding fiscal year beginning October 1st, and the expenses of such county for any such fiscal year shall not exceed the revenues of the county for that year. All debts contracted or liabilities incurred by the said county in excess of such revenues shall be void. The governing body of Mobile County may, during any such fiscal year, borrow additional money to the extent of twenty-five (25%) per cent of the general revenues of such County for the preceding fiscal year, and pledge to secure the payment thereof the general revenues of the county for such current fiscal year only, such loans to be paid within that fiscal year or from the pledged general revenues of the County subsequently collected for that year, and any loan so made and not paid out of the general revenues of the County pledged to secure the same shall be void as to any amount remaining unpaid. The legislature shall not, after the adoption of this amendment, pass any law making any claim a preferred claim against said County, and all laws, or parts of laws, now in force and effect, making a claim a preferred claim against said County, are hereby annulled as to any future claim. The words 'governing body of Mobile County' as herein used shall include any board or officer which is now or which may hereafter be vested with the powers and duties now or formerly exercised by the Board of Revenue and Road Commissioners of Mobile County, Alabama. Any person violating any of the provisions of this amendment shall, upon conviction, be punished by a fine not exceeding \$5,000.-00, or by imprisonment in the penitentiary for not more than two years, one or both, at the discretion of the jury trying the same, and the violation of any of the provisions of this amendment shall also be ground for impeachment.

Section 2. That it shall be the duty of the Governor to give notice by proclamation to be published in one newspaper in each County in the State at least four successive weeks next preceding the date of the election hereinafter fixed of the election on the amendment proposed by this act to be submitted to the qualified voters of the State for their consideration, together with the proposed amendment.

Section 3. That on the first Tuesday after the expiration of



three months after the final adjournment of the present session of the Legislature of Alabama, an election shall be held for the vote of the qualified electors of the State of Alabama upon the proposed amendment. Upon the official ballot printed for such election shall be printed the following, namely: "Shall the following be adopted as an Amendment to the Constitution of Alabama?" "The Legislature of Alabama may authorize Mobile County to issue bonds from time to time, not exceeding in the aggregate \$1,600,000.00 which bonds, or the proceeds thereof, shall be used exclusively for paying valid and enforceable unbonded obligations of Mobile County, and unbonded obligations of Mobile County which would be valid and enforceable but for the provision or provisions of the Constitution of Alabama of 1901 fixing the debt limit of said County, and all past due interest and principal on any valid and enforceable bonded obligations of said County, existing on September 30th, 1936. In September of each year after the adoption of this amendment to the Constitution, the governing body of Mobile County shall adopt a budget based on 95% of the gross receipts of the general fund of the preceding year for the succeeding fiscal year beginning October 1st, and the expenses of such County for any such fiscal year shall not exceed the revenues of the County for that year. All debts contracted or liabilities incurred by the said County in excess of such revenues shall be void. The governing body of Mobile County may, during any such fiscal year, borrow additional money to the extent of twenty-five per cent (25%) of the general revenues of such County for the preceding fiscal year, and pledge to secure the payment thereof the general revenues of the County for such current fiscal year only, such loans to be paid within that fiscal year or from the pledged general revenues of the County subsequently collected for that year, and any loan so made and not paid out of the general revenues of the County pledged to secure the same shall be void as to any amount remaining unpaid. The Legislature shall not, after the adoption of this amendment, pass any law making any claim a preferred claim against said County, and all laws, or parts of laws, now in force and effect, making a claim a preferred claim against said county, are hereby annulled as to any future claim. The words "governing body of Mobile County" as herein used shall include any board or officer which is now or which may hereafter be vested with the powers and duties now or formerly exercised by the Board of Revenue and Road Commissioners of Mobile County, Alabama. Any person violating any of the provisions of this amendment shall, upon conviction, be punished by a fine not exceeding \$5,000.00, or by imprisonment in the penitentiary for not more than two years, one or both, at the discretion of the jury trying the same, and the violation of any of the provisions of this

amendment shall also be ground for impeachment.' " Following the proposed amendment on the ballot shall be printed the word "Yes" and immediately under that shall be printed the word "No." The choice of the voter shall be indicated by a cross-mark by him or her opposite the word expressing his or her desire.

Section 4. The officers for said election shall open the polls for a vote of the qualified electors of the State upon the proposed amendment. The election shall be held in all things in accordance with the law governing general elections. In the election upon such proposed amendment the votes cast thereat shall be canvassed, tabulated and the returns thereof be made to the Secretary of State, and counted in the same manner as in elections for Governor, and if it shall thereupon appear that a majority of the qualified electors who voted upon the proposed amendment voted in favor of the same, such amendment shall be valid to all intents and purposes as a part of the Constitution of Alabama. The result of such election shall be made known by proclamation of the Governor.

Passed by the House of Representatives September 13, 1935.

Passed by the Senate September 13, 1935.

No. 383)

(H. 373—McPhaul.

### AN ACT

To Revise and Amend "An Act to Revise and Amend Chapter 224 of the Code of 1907," approved September 29, 1923.

*Be it enacted by the Legislature of Alabama:*

That "An Act to Revise and Amend Chapter 224 of the Code of 1907" be revised and amended to read as follows:

Section 1. The title and ownership to all wild birds, wild animals and fish in the State of Alabama or within the territorial jurisdiction of the State are vested in the State for the purpose of regulating the use and disposition of same in accordance with the laws of the State.

Section 2. Any person, firm, association or corporation who or that which takes, catches, kills or has in possession at any time, living or dead, any protected wild bird not a game bird or who sells or offers for sale, buys, purchases or offers to buy or purchase any such bird or exchange same for anything of value, or who shall sell or expose for sale or buy any part of the plumage, skin or body of any bird protected by the laws of this State, or who shall take or wilfully destroy the nests of any wild bird or who shall have such nests or eggs of such birds in his, her or its possession, except as otherwise provided by law, shall be guilty of a misdemeanor and upon conviction shall be punished by a

fine of not less than Ten (\$10.00) Dollars nor more than Twenty-five (\$25.00) Dollars for each offense.

Section 3. No person shall at any time collect any protected wild animal or bird, or egg of any bird, in this State for propagation or scientific purposes except under the direction supervision and regulation of the Commissioner, who, on the payment of One (\$1.00) Dollar, may issue such propagation or scientific permits annually to properly accredited persons or institutions. Any person, firm, association or corporation being or having in possession at any time such animal or bird, or the eggs of such bird, without a permit as provided in this section shall be guilty of a misdemeanor and upon conviction therefor shall be punished by a fine of not less than Ten (\$10.00) Dollars nor more than Twenty-five (\$25.00) Dollars for each offense.

Section 4. English sparrows, Cooper's hawks, chicken hawks, sharp-shinned hawks, blue darters, the great horned owl, crows, starlings and buzzards are not protected by the game laws of this State and may be killed at any time.

Section 5. Any person who shall take, catch or kill or attempt to take, catch or kill any bird or animal protected by the laws of this State with or without a headlight or other artificial light or with or without a shotgun, rifle, air-rifle, pistol or revolver between sunset and daylight the following day shall be guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than Twenty-five (\$25.00) Dollars nor more than Fifty (\$50.00) Dollars for each offense; provided that animals classed as fur bearers by the laws of this State or regulations based thereunder may be hunted, pursued, taken, captured or killed between sunset and daylight the following day, but in no case shall such fur bearing animals be hunted, taken, caught, captured or killed by means of or with any shotgun, rifle, air-rifle, pistol or revolver between sunset and daylight the following day, and any violation of the provisions of this section relating to fur bearing animals shall subject the person so violating to the penalty provided in this section. Provided however that nothing herein contained shall prevent the hunting of animals commonly referred to as coons and opossums with a light at night time.

Section 6. Any person who hunts, takes, catches, kills or who attempts to take, catch, or kill any wild bird or animal except during the open season when same may be taken, captured or killed, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty (\$20.00) Dollars nor more than Fifty (\$50.00) Dollars for each offense.

Section 7. Any person, firm or corporation who or that which sells, offers or exposes for sale, buys, purchases, barter or exchanges anything of value for any game bird or game animal, or

any part thereof, at any time, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty-five (\$25.00) Dollars nor more than Fifty (\$50.00) Dollars for each offense; provided, however, duly licensed catchers of fur bearing animals may sell to regularly licensed buyers or dealers only the furs, skins or pelts of fur bearing animals which they lawfully take, capture or kill; provided further that such licensed catcher of fur bearing animals may sell or offer for sale for food the dressed carcass of edible fur bearing animals named by law or regulations based thereunder.

Section 8. Any person who hunts, pursues, captures or kills a wild turkey in this State with the aid of a dog, at any time shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty-five (\$25.00) Dollars nor more than Fifty (\$50.00) Dollars for each offense.

Section 9. Any person who hunts, pursues, captures, kills or who attempts to pursue, capture or kill any wild turkey hen or any doe or female deer or who kills an unantlered male deer at any time shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty-five (\$25.00) Dollars nor more than Fifty (\$50.00) Dollars for each offense.

Section 10. It shall be unlawful for any person, firm or corporation to take, capture or kill by any means or device any of the fur bearing animals protected by the laws of this State, without first procuring a license therefor to be issued in the same manner as is provided for hunting and fishing licenses and after paying therefor the sum of Two and 50/100 (\$2.50) Dollars, which license when issued shall be good only during the season when fur bearing animals may be legally taken. In addition to the license provided in this section, the holder thereof shall be required to procure from the probate judges or other persons authorized to issue hunting licenses, stamps or tags to be furnished by the Commissioner to those issuing hunting, fishing and fur licenses, which stamp or tag shall be securely attached to each fur, skin, or pelt sold or offered for sale. Said stamp or tag shall be issued in duplicate, upon the payment of the following fees:— for o'possum, skunk, muskrat, weasel, civet cat, two (2c) cents; for racoon and mink, fifteen (15c) cents; for bear, beaver, fox, otter, One (\$1.00) Dollar. A violation of the provisions of this section or failure of full compliance therewith shall constitute a misdemeanor and upon conviction the person, firm or corporation violating same or failing to comply therewith shall be punished by a fine of not less than Ten (\$10.00) Dollars nor more than Twenty-five (\$25.00) Dollars for each offense.

Section 11. It shall be a violation of this Act, subject to the same penalties as are provided for other offenses in Section 5 of

this Act, for any person, firm or corporation or association to ship or carry from this State any skin or hide of any fur bearing animal on which the State tax is due without the State tax first being paid; provided further that any non-resident dealer or his or their agent operating in this State shall be required to post a cash deposit or bond of One Thousand (\$1000.00) Dollars, and that any resident dealer shall be required to post a cash deposit or a bond of Five Hundred (\$500.00) Dollars to guarantee payment of all taxes due by such dealer under the provisions of this Act.

Section 12. Only such persons as have been residents continuously in this State for one year preceding the opening of the fur catching season shall be permitted to take, catch or kill or attempt to take, catch or kill fur bearing animals in this State or shall be permitted to receive a license therefor. A violation of the provisions of this section shall be a misdemeanor and the person so violating shall be punished by a fine of not less than Ten (\$10.00) Dollars nor more than Twenty-five (\$25.00) Dollars for each offense.

Section 13. No person using traps for the purpose of taking or catching fur bearing animals shall be permitted to set or have set in any one day more than one hundred and fifty traps. A violation of the provisions of this section shall be a misdemeanor and the person so violating shall be punished by a fine of not less than Ten (\$10.00) Dollars nor more than Twenty-five (\$25.00) Dollars for each offense.

Section 14. Judges of Probate and other persons authorized and designated to issue licenses, stamps or tags provided in the preceding section shall retain out of the license fee the sum of fifty (50c) cents, which shall cover the services required for issuing and reporting the sale of said licenses, stamps or tags, and shall remit the balance to the Commissioner on the first of each month, which balance shall be deposited with the State Treasury to the credit of the Game and Fish Fund; provided, however, that Judges of Probate, License Commissioners or other persons authorized to issue hunting, fishing and fur licenses who are paid a salary for their services as a public official, shall remit to the Commissioner the entire amount of revenue derived each month from the sale of fur licenses, stamps or tags. Each person authorized to issue fur licenses, stamps or tags shall make a full and complete report on the first day of each month to the Commissioner of the number of licenses and the number of stamps or tags of each class issued and the name and post office address of the person or persons to whom issued, giving opposite each name the serial number of the license issued and the number of each kind of stamp or tag issued to each licensee, so issued, and the amount of money remitted therefor.

Section 15. Any person, firm or corporation who sells, ships by mail, express or otherwise transports within or without this State raw furs, skins or pelts of fur bearing animals for which the taking, capturing, killing or the catching of which has been done without first procuring a fur license and on which fur, skin or pelt a stamp or tag as herein provided is not securely attached or in consequence of which a fur license has not been issued, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty-five (\$25.00) Dollars nor more than Fifty (\$50.00) Dollars for each offense.

Section 16. Any person, firm, corporation, association or common carrier, or any agent of such person, firm, corporation, association or common carrier, who receives or accepts any raw fur, skin or pelt for storage, purchase, shipment or transportation on which or in consequence of which a license to take, capture or kill has not been issued or on which a stamp or tag has not been securely attached, shall be guilty of a misdemeanor and upon conviction therefor shall be punished by a fine of not less than Twenty-five (\$25.00) Dollars nor more than Fifty (\$50.00) Dollars for each offense.

Section 17. Any person, other than a fur-catcher shipping his own catch, who ships or carries skins and hides of fur-bearing animals out of this State shall be considered a dealer. Provided that any non-resident who accompanies, consults, advises, finances, or associates any resident dealer, or trapper or furcatcher in the examination, grading or purchase of furs offered for sale within or without the State, shall be presumed to be a dealer and shall be required to obtain a nonresident's license. Provided further that any resident of this State who accompanies, consults, advises, finances or associates any non-resident, or whose operations under this act are financed in whole or in part by such non-resident, in the examination, grading or purchase of furs offered for sale within or without this State, shall be presumed to be a dealer and shall be required to obtain a resident dealer's license.

Section 18. Any person, firm, association or corporation who or that which engages in the business of buying, trading, selling or otherwise deals in raw furs, skins or pelts of fur bearing animals (for which a business license is not otherwise provided herein) shall be required, before engaging in or transacting any such business, to first procure a license, in the same manner and place as provided for procuring hunting, fishing and fur licenses, and upon the following schedule:— A minimum license fee of Twenty-five (\$25.00) Dollars when the gross sales during the next preceding year amounted to \$15,000.00 or less; a license fee of Fifty (\$50.00) Dollars when such gross sales amounted to more than \$15,000.00 and less than \$30,000.00; a license fee of One Hundred

(\$100.00) Dollars when such gross sales amounted to \$30,000.00 or more. Any non-resident dealer, trader or buyer of furs, skins or pelts of fur bearing animals who or which maintains a place of business in this State or who in person or through his or its agent buys, trades or deals in furs, skins or pelts of fur bearing animals in this State shall first procure a license and pay a fee of Three Hundred (\$300.00) Dollars therefor. A non-resident as herein mentioned is defined as any person, firm, association or corporation who or that which has not been continuously domiciled in this State for one year prior to October the first of the year for which such license is required. Any person, firm, association or corporation who or that which violates any of the provisions of this Act for which a penalty is not otherwise provided shall be guilty of a misdemeanor and upon conviction therefor shall be punished by a fine of not less than Fifty (\$50.00) Dollars nor more than Three Hundred (\$300.00) Dollars for each offense, and in addition thereto shall have his license cancelled by the Commissioner, and he or it shall not be permitted to renew the license so cancelled nor shall a new license be issued to such person, firm, association or corporation for a period of two years thereafter; provided that amounts required to be paid to the State by Schedule 73 of the General Revenue Act approved July 10, 1935, shall be deducted from the amounts required to be paid to the Department of Conservation of Game, Fish and Seafoods by firms, associations or corporations as set out in this Section.

Section 19. The Commissioner, his wardens, or any other persons appointed and designated by him for such purpose, shall have power and authority at any and all reasonable hours to inspect or examine the books and records of any person, firm, association or corporation, in order to determine the amount of license fees due under the provisions of the preceding section, and to further require such persons or any member or members or agents or employees of such firm, association or corporation, to answer under oath any questions that may be propounded, to determine the facts desired. The Commissioner and his said wardens and agents shall further have authority to administer an oath to any such person.

Section 20. Any person, firm, association or corporation who or that which takes, ships, or transports, without or within this State, any of the birds or game protected by the laws of this State, unless the same be in the personal possession of, or be carried openly by the owner thereof, or person killing the same, who has in his or her possession a non-resident's license, if the game is to be carried without this State, or a resident's license if the game is to be transported wholly within this State, shall be guilty of a misdemeanor and, on conviction shall be punished by a fine of not less than Twenty-five (\$25.00) nor more than Fifty (\$50.00)

Dollars; provided, however, that under proper regulations by the Board issued by the Commissioner, any person may transport as baggage, or by express, not more than two days' bag limit of any game birds or animals taken legally; and provided further that such baggage or express be marked or tagged with the shipping tag procured from the Department of Conservation of Game, Fish and Seafoods, and a fee of twenty-five cents paid therefor. Failure or refusal on the part of any person to comply with the provisions of this section shall be deemed a misdemeanor and upon their conviction shall be punished by a fine of not less than Twenty-five (\$25.00) Dollars nor more than Fifty (\$50.00) Dollars for each offense.

Section 21. Any person, company, corporation or common carrier, who or which shall ship or transport any game birds or game animals or parts thereof without first ascertaining that the person, firm or corporation offering same for shipment or transportation has in his or her or its possession a license authorizing his, her or its possession of same, and covering the period when such shipment is offered and the license tax required in this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than Twenty-five (\$25.00) Dollars nor more than Fifty (\$50.00) Dollars.

Section 22. Any person who hunts or traps on the lands of another with a gun and dog or with steel traps without first having obtained from the owner or agent thereof a written permission to do so shall be guilty of a misdemeanor, and on conviction shall be fined not less than Ten (\$10.00) Dollars nor more than Twenty-five (\$25.00) Dollars, provided that no written permission shall be required of any person actually hunting in company with any owner or agent or any member of their families when hunting on lands owned or controlled by such owner or agent.

Section 23. Any person who hunts within a distance of one hundred yards of any public road, public highway or railroad, logging railroad excepted, in this State, or who explodes any firearms while hunting within such public road, highway or railroad shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty-five (\$25.00) Dollars nor more than Fifty (\$50.00) Dollars for each offense.

Section 24. All game, birds, animals or fish, taken or killed in this State must at all times be carried or transported openly, and failure to do so shall constitute a misdemeanor punishable by a fine of not less than Ten (\$10.00) Dollars nor more than Twenty-five (\$25.00) Dollars. All game, birds, animals and fish, carried or transported in an illegal manner or taken or killed illegally shall be confiscated and disposed of under regulations by the Commissioner.



Section 25. Any official of any court, officer or warden, who shall fail to perform any act, duty or obligation enjoined upon him by the provisions of this Act, or who fails or refuses to make proper remittance of all fines, forfeitures or other moneys due to be remitted to the Department under the game and fish laws of this State which may be now or hereafter enacted, shall be guilty of a misdemeanor and, on conviction, shall be punished by a fine of not less than Fifty (\$50.00) Dollars nor more than One Hundred (\$100.00) Dollars.

Section 26. Any person who wilfully opposes or resists the warden or other agent of the Commissioner in the discharge of his or their duty under the provisions of the game and fish laws of this State which are now or may be hereafter enacted, must on conviction be fined not less than Fifty (\$50.00) nor more than One Hundred (\$100.00) Dollars, and may also be imprisoned in the county jail, or sentenced to hard labor for the county for not more than three months.

Section 27. Any person who violates any of the provisions of this Act, the penalty for which is not otherwise expressly provided, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than Twenty-five (\$25.00) Dollars and not more than One Hundred (\$100.00) Dollars for each such offense.

Section 28. All laws and parts of laws in conflict with the provisions of this Act are hereby expressly repealed.

Section 29. If any provisions of this Act or the application thereof to any person or circumstances, shall be held by the Supreme Court of this State to be unconstitutional, such holding shall not affect any other provision or the application of same to any other person or circumstances, it being the intent and purpose hereof that each provision and section of this Act shall stand or fall on its own merits, and that the judicial annulment of any such provision or section shall not in any wise affect any other provision or section not so annulled.

Section 30. This Act shall become effective on approval by the Governor.

Approved September 9, 1935.

## AN ACT

To amend Section 7 of an Act entitled: An Act to give effect to the amendment to Section 93 of the Constitution of Alabama adopted at the November election, 1922, enabling the State "when authorized by appropriate laws passed by the Legislature, to engage in the work of internal improvement, of promoting, developing, constructing, maintaining and operating all harbors or seaports within the State or its jurisdiction at a cost not exceeding ten million dollars"; continuing the authority granted the State of Alabama in Chapter 44, Article 4, of the Code of 1923, to engage in the work of internal improvement of promoting, developing, constructing, maintaining and operating all harbors or seaports within the State or its jurisdiction, including all kinds of terminal facilities at seaports, and therein and thereafter to borrow money through the issue and sale of its bonds, or otherwise therefor, but not to exceed in the aggregate ten million dollars; to prescribe the powers and authority of the State in respect to said development; continuing an agency of the State known as the State Docks Commission, preserving the terms of office of the existing members of the State Docks Commission, providing for the election, subject to confirmation by the Senate, and/or the Governor, of members of the State Docks Commissions, including the participation by the Governor in the election of members of the Commission under certain circumstances provided; to provide for the management and control of all of said operations by said agency; to prescribe and define the powers, duties and jurisdiction of such agency, including, among other things, the leasing of real estate within the boundaries of the State Docks area and exempting from State, County and municipal taxation structures and improvements as well as all permanent facilities erected, installed or located, within said boundaries, by lessees, their successors or assigns, for the period stipulated in such leases, and including the exercise of the power of eminent domain, and, among other things, to make rules and regulations concerning the licensing and disciplining of pilots, fixing pilotage fees, promulgating rules and regulations for the operation and maintenance of any seaport or harbor within the State, preventing and penalizing obstruction of any harbor or seaport, providing suitable penalties for the violation of any rule or regulation established by said Commission under the authority of this Act; to confer upon said agency the power and authority to fix reasonable charges for services rendered pursuant to this Act by the State, or under its authority, and for the use of its facilities acquired or constructed under authority of this Act, to require all persons and corporations rendering like services or furnishing similar facilities, to make charges therefor at least as great as the reasonable charges fixed by such agency, to establish harbor lines and to grant licenses to riparian owners to erect aids to navigation; to regulate generally the acquisition, construction, development and operation by the State of harbor improvements; including, among other things, all kinds of terminal facilities at seaports; to repeal all laws in conflict with this Act, and expressly repealing the following sections of the Code of 1923, viz: Sections 2427 to 2517, both inclusive. Approved January 17, 1927.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That Section 7 of an Act entitled An Act To give effect to the amendment to Section 93 of the Constitution of Alabama adopted at the November election, 1922, enabling the State

'when authorized by appropriate laws passed by the Legislature, to engage in the work of internal improvement, of promoting, developing, constructing, maintaining and operating all harbors or seaports within the State or its jurisdiction at a cost not exceeding ten million dollars'; continuing the authority granted the State of Alabama in Chapter 44, Article 4, of the Code of 1923, to engage in the work of internal improvement of promoting, developing, constructing, maintaining and operating all harbors or seaports within the State or its jurisdiction, including all kinds of terminal facilities at seaports, and therein and thereafter to borrow money through the issue and sale of its bonds, or otherwise therefor, but not to exceed in the aggregate ten million dollars; to prescribe the powers and authority of the State in respect to said development; continuing an agency of the State known as the State Docks Commission, preserving the terms of office of the existing members of the State Docks Commission, providing for the election, subject to the confirmation by the Senate, and/or the Governor, of members of the State Docks Commission, including the participation by the Governor in the election of members of the Commission under certain circumstances provided; to provide for the management and control of all of said operations by said agency; to prescribe and define the powers, duties and jurisdiction of such agency, including, among other things, the leasing of real estate within the boundaries of the State Docks area and exempting from State, county and municipal taxation structures and improvements as well as all permanent facilities erected, installed or located, within said boundaries, by lessees, their successors or assigns, for the period stipulated in such leases, and including the exercise of the power of eminent domain, and, among other things, to make rules and regulations concerning the licensing and disciplining of pilots, fixing pilotage fees, promulgating rules and regulations for the operation and maintenance of any seaport or harbor within the State, preventing and penalizing obstruction of any harbor or seaport, providing suitable penalties for the violation of any rule or regulation established by said Commission under the authority of this Act; to confer upon said agency the power and authority to fix reasonable charges for services rendered pursuant to this Act by the State, or under its authority, and for the use of its facilities acquired or constructed under authority of this Act, to require all persons and corporations rendering like services or furnishing similar facilities, to make charges therefor at least as great as the reasonable charges fixed by such agency; to establish harbor lines and to grant licenses to riparian owners to erect aids to navigation; to regulate generally the acquisition, construction, development and operation by the State of harbor improvements; including, among other things, all kinds of terminal facilities at seaports; to repeal all laws in con-

flict with this Act, and expressly repealing the following sections of the Code of 1923, viz: Sections 2427 to 2517, both inclusive, Approved January 17, 1927." be and the same is hereby amended to read as follows: Section 7. The State, in engaging in the work of internal improvement, of promoting, developing, constructing, maintaining, and operating harbors or seaports within the State and its jurisdiction, acting through the said Commission, shall have power to acquire, purchase, install, lease, construct, own, hold, maintain, equip, use, control and operate at seaports, wharves, piers, docks, quays, grain elevators, cotton compresses, warehouses and other water and rail terminals and other structures, and facilities needful for the convenient use of the same in the aid of commerce including the dredging of approaches thereto, but before the said Commission shall exercise such authority it shall first submit plans, including estimates of cost, prepared by competent engineers or architects, to the Governor who shall consult and confer with said board in reference thereto and as to dredging with the proper United States authorities. The Governor shall also be authorized and empowered, wherever he thinks it is expedient, to make other and further investigations in regard to the desirability of such proposed acquisition or erection of facilities as above mentioned. Before approving any purchase of real estate at a price of more than \$10,000.00 the Governor shall cause the same to be appraised by three disinterested and competent men of his selection, the expense of such appraisal to be paid as hereinafter provided for the payment of expenses, and no purchase thereof shall be made, except by condemnation, for a sum in excess of said appraisal. If after such full investigation as he deems necessary is made, the Governor approves such facilities, he shall indicate it by endorsing his approval on the plan, or by letter to the Commission, and thereupon the Commission shall go forward with such project. If, however, the Governor disapproves, the Commission shall not have authority to begin such proposed improvement but may make other and further suggestion or amendments to the Governor from time to time. The plans heretofore approved by the Governor and any and all other plans hereafter submitted by the Commission and approved by the Governor may be amended, changed, or enlarged by the Commission with the approval of the Governor, such approval being manifested by his endorsement of the fact on such amended, changed or enlarged plan, provided the total cost of the entire development shall not exceed ten million dollars. The State through the said Commission shall have power to acquire, own, lease, and operate tug and pilot boats, to locate, install, construct, acquire, lease, own, hold, maintain, control and operate at seaports a line of terminal railroads with necessary sidings, turn outs, spurs, branches, switches, yard track, bridges, trestles, and causeways

and in connection therewith or appurtenant thereto shall have the further right to lease, install, construct, acquire, own, maintain, control and use any and every kind or character of motive power and conveyances or appliance necessary or proper to carry passengers, goods, wares, and merchandise over, along or upon the tracks of such railroads or other conveyances. And the State, acting through the said Commission, shall have the right and authority to make agreements as to scale of wages, seniority and working conditions with locomotive engineers, locomotive firemen, switchmen and switch engine foremen and hostlers engaged in the operation of the terminal railroads provided for in this Act, and the service and equipment pertinent thereto. And should the said Commission exercise the authority herein given then in such event it shall be the duty of the said Commission to make such agreements with said employees hereinabove specified, in accordance with the Act of Congress known as the Railway Labor Act (U. S. C. Title 45, Sections 151-163) as amended or as hereafter amended to the end that the same agreements as to seniority and working conditions will obtain as to said employees and the standard rate of pay be provided, as are in force relative to like employees of interstate railroads operating in the same territory with terminal railroads authorized hereby. The State, acting through the said Commission, shall have the right and authority with its terminal railroads to connect with or cross any other railroad upon the payment of just compensation and to receive, deliver to and transport the freight, passengers, and cars of common carrier railroads as though it were an ordinary common carrier. The title to all property acquired under the authority of this Act shall vest in the State of Alabama, but the Commission, with the consent and approval of the Governor, may dispose of, sell or lease to others, at reasonable prices and for reasonable compensation, any of said property, equipment and facilities; provided that the proceeds of all such sales shall be returned to capital account. The proceeds from all leases shall become a part of the operating fund. All leases of real estate within the boundaries of the approved plan or within the boundaries of any amendment or extension thereof, for port or harbor improvement in and by the State of Alabama, acting by and through its agency, the State Docks Commission, and also all structures and all improvements and all other permanent facilities erected, installed or located, by lessees, or their successors or assigns, within the boundaries aforesaid, shall be free and exempt from all State, County and municipal taxation for such period as may be stipulated in the lease or in any renewal thereof, but not longer than the terms of the lease and/or its renewal. The Commission with the approval of the Governor is authorized to exchange any property or properties acquired under the authority

of this Act for other property, or properties usable in carrying out the powers hereby conferred, and also to remove from lands needed for its purposes and reconstruct on other locations, buildings, terminals, railroads, or other structures upon the payment of just compensation, if, in its judgment, it is necessary or expedient so to do in order to carry out any of its plans for port development approved by the Governor. The power of eminent domain shall apply, not only as to all property of private persons or corporations, but also as to property already devoted to public use, provided, however, the said Commission shall have no authority to acquire without the consent of the owner thereof any property now operated and used for port purposes or such purposes as the Commission is authorized to acquire and use property for, unless an actual necessity therefor be alledged and proven. It is provided, however, that said Commission shall not purchase, lease or acquire by exchange any property in which any member of the Commission is financially interested, either directly or indirectly, whether as a stockholder of a corporation or otherwise. The Commission with the approval of the Governor is hereby authorized to bring and prosecute, for and in the name of the State, all such suits, actions, and other legal proceedings as may be proper or necessary for the enforcement of the rights of the State growing out of any of its transactions or operations authorized by this Act, provided that the Commission, so far as practicable to do so, shall utilize the labor of residents of this State in the construction of the works provided for in this Act.

Section 2. That all laws or parts of laws in conflict herewith, either general, local or special, be and the same are hereby repealed.

Section 3. That this Act shall be effective immediately upon its passage and approval.

Approved September 9, 1935.

No. 386)

(H. 491—Todd

### AN ACT

To amend Sections II, III, V and VI of an Act entitled "An Act to define, regulate and license barbers and barber colleges, and other like businesses in counties of the State of Alabama having a population of three hundred thousand or over, according to the last or any subsequent Federal Census; to create a barbers' Commission for said Counties; and to provide a penalty for the violation of the provisions hereof," which became a law July 24, 1931, under Section 125 of the Constitution.

*Be it enacted by the Legislature of Alabama:*

Section 1; That Sections II, III, V, and VI of an Act entitled "An Act to define, regulate and license barbers and barber colleges,

and other like businesses in counties of the State of Alabama having a population of three hundred thousand or over, according to the last or any subsequent Federal Census; to create a barbers' Commission for said Counties; and to provide a penalty for the violation of the provisions hereof," which became a law on July 24th, 1931, be and the same is amended so that the same shall read as follows: Section II. A barber, barber shop, barber college or other like business within the meaning of this Act is any person, firm, partnership, co-partnership, association or corporation, who, for a valuable consideration, shaves or trims the beard, gives facial or scalp massages, or treats the same with oils or other preparations, singes, shampoos, cuts or dyes the hair of a human being, or applies hair tonic or other cosmetic preparations, clays, or lotions to the scalp, neck or face, or engages in the teaching of any person or persons in the art of barbering as in this paragraph defined. Provided, However, the provisions of this Act shall not apply to (1) persons engaged in the practice of medicine, surgery or beauty culture, (2) persons actively engaged in the military service of the United States Government while acting in line of duty, (3) registered nurses in the course of their employment as such, (4) persons who render any of said services to members of their immediate families. Section III. There is hereby created a Barbers' Commission for each county in the State of Alabama affected by this Act. The County Commission or like governing body of the counties affected shall appoint three persons, each of whom immediately prior to the date of his appointment has been a resident of the State for three years, and of the counties affected hereby for at least one year, and who has had at least five years' experience as a barber, one member to be appointed for a term of one year, one member to be appointed for a term of two years, and one member to be appointed for a term of three years, and until their successors are appointed and qualify, thereafter the term of the members of said Commission shall be for three years and until their successors are appointed and qualify, provided, however, that the member appointed during the calendar year 1936 shall be appointed for a term of two years; the member appointed during the calendar year 1937 shall be appointed for a term of one year, and when the terms of all three expire in 1938, their successor shall each be appointed for a period of two years, and thereafter all the members of said Commission shall be appointed for concurrent terms of two years each and until their successors are appointed and qualify, There shall be at no time more than two Commissioners residing or doing business in any one city, town or village, of counties affected hereby. Members to fill vacancies shall be appointed and vacancies caused by the expiration of the term shall by said person be appointed from time to time as required. The Commission

immediately upon the qualification of the member appointed each year, or immediately upon the qualification of the three commissioners appointed together, after the year 1937, shall organize by selecting from its members a chairman, and may do all things necessary or convenient for carrying into effect the provisions of this Act. Each member of the Commission shall receive as full compensation for each day actually spent in the work of said Commission the sum of seven dollars per day and his actual and necessary expenses thereby incurred. The members of said Commission shall not be paid for their attendance for more than one meeting of not over one days duration during each calendar week. The Commission shall appoint, and at its pleasure discharge, a secretary-examiner and an inspector and such assistants as may be deemed necessary to discharge the duties imposed by the provisions of this Act, said commission shall outline their duties and fix their compensation subject to the general laws of this State. The Commission shall obtain such office space, furnishings, and other conveniences as shall be reasonably necessary for carrying out the provisions of this Act. The inspector shall have the power and authority to arrest persons guilty of a violation of any of the provisions of this Act. The principal office of said Commission to be located at the county seat of the counties hereby affected. The Commission shall adopt a seal with such design as it may prescribe engraved thereon, by which it shall authenticate its proceedings. Copies of all records and papers in the office of the Commission duly certified and authenticated by its seal shall be received in evidence in all Courts with like effect as the original. All records kept in the office of the Commission under authority of this act shall be open to public inspection under such rules and regulations as shall be prescribed by the Commission. All fees and charges collected by the Commission under the provisions of this Act shall be paid into the treasury of the counties hereby affected and shall constitute a separate fund to be disbursed by the county treasurer on order of the Board of Commissioners and with the approval of the chairman of the Board of County Commissioners or Board of Revenue. All expenses incurred by the Commission, including the compensation of members and their employee, shall be paid out of such separate fund upon checks signed by the chairman of said Commission and approved by the Chairman of the Boards of County Commissioners or Boards of Revenue by the County Treasurer, provided the total expenses for every purpose incurred shall not exceed the total fees and charges collected and paid into the county treasury by said Commission and all moneys remaining in said separate fund at the end of the fiscal year not expended as herein provided shall become a part of the general fund of the county. Section V. Whenever the masculine gender is used in



this Act it is to include the feminine gender. Every applicant for a barber's license, apprentice-barber's license, or for a license to operate a barber shop or barber's college, or other like business, shall therefor in writing on blanks prepared or furnished by said barber's Commission. It shall be accompanied by the recommendation of at least two barbers doing business in said County, not related to applicant, certifying that the applicant is of good reputation, is qualified to practice the trade of barbering, and recommending that a license be granted. Said application shall be accompanied by the application fee hereinafter provided, and a reputable doctor's certificate certifying that said applicant has no communicable or contagious or infectious disease. Should said application not be approved, one-half the fee filed therewith shall be refunded to the applicant and one-half thereof shall be retained by the Commission for the expense of conducting the investigation and examination by this Act required. The Commission, after applications in proper form have been filed, shall set the application down for a hearing (before refusing to issue a license), and determination as hereinafter provided. The Commission shall issue a license in such form as it may prescribe, which shall show the name and address of the licensee and the barber shop and college, in which he is employed. The seal of the Commission shall be imprinted on the license, and such other additional matter placed thereon as the Commission may designate. It shall be the duty of each person, co-partnership, association or corporation to conspicuously display his license in his place of business. The Commission shall issue to each licensee a pocket card, on which shall be an imprint of the seal of the Commission certifying that the person whose name appears thereon is a licensed barber or operator of one of the businesses herein named as the case may be. The original fee for each barber's license shall be twenty-five dollars and the annual renewal fee shall be seven dollars and fifty cents. The original fee for each person to operate a barber shop, or other like business shall, in addition to the fee hereinbefore provided, pay two dollars and fifty cents for each chair maintained and an annual renewal fee of one dollar for each chair maintained in said business. The original fee for each person to operate a barber college shall in addition to the fee hereinbefore provided be one hundred dollars. Every license shall expire on the 31st day of December of each year. The Commission shall issue a new license for the ensuing year in the absence of any reason or condition that might warrant the refusal of granting of the license upon the receipt of the written request of the applicant accompanied by the annual fee therefor, as herein required, and accompanied also by a certificate of a reputable physician asserting that the applicant then has no contagious, communicable, or infectious disease. The Commission may upon its own motion,

and shall upon the verified complaint in writing of any three persons making out a prima facie case, investigate the actions of any person hereby affected, and shall have the power to suspend or to revoke any license issued under the provisions of this Act at any time where the licensee has fraudulently obtained a license, or where the licensee in performing or attempting to perform any of the acts mentioned herein is deemed to be guilty of (a) the violation of any state, county or city statute or ordinance pertaining to the operation of the business hereby affected, (b) the violation of any rule or regulation established by the Commission, (c) or who has failed upon the request of the secretary-examiner to give evidence and/or proof of the compliance with the same. The Commission shall, before denying an application for a license, or before suspending or revoking any license, set the matter down for a hearing, and at least twenty days prior to the date set for the hearing, notify the applicant or licensee in writing, which notice shall contain an exact statement of the charges made and the date and place of hearing. The applicant or licensee at all such hearings shall have the opportunity to be heard in person and by counsel. Such notice may be served by delivery of the same personally to the applicant or licensee, or by mailing the same by registered mail to the last known business address of such applicant or licensee. In preparation and conduct of hearings, the Commission shall have power to require by subpoena the appearance and testimony of witnesses and the production of papers, and any member of the Commission may sign subpoenas, administer oaths, and examine witnesses. The fees and mileage shall be the same as prescribed by law in judicial procedure in the courts of this State in civil cases. Any party to a hearing shall have the right to the attendance of witnesses in his behalf. In case of disobedience to a subpoena, any member of the Commission may invoke the aid of any court of competent jurisdiction in requiring the attendance and testimony of witnesses and the production of papers and such court may issue an order requiring the persons to appear before the Commissioner, and give evidence or produce papers, as the case may be, and any failure to obey such order of the Court may be punished by the court as a contempt thereof. Any person so refusing to appear and give testimony required by such Commission shall be guilty of a misdemeanor, and upon conviction thereof by a court of competent jurisdiction, as provided by this Act. If the Commission shall determine that any applicant is not qualified to receive a license, or that any licensee is guilty of a violation of any of the provisions of this Act, a license shall not be granted, or the same suspended or revoked, as the case may require. Upon request of the applicant or licensee in writing, the Commission shall furnish said party with a definite statement of its findings of facts

and its reason or reasons for refusing to grant the license or for its suspension or revocation of same. The findings of the Commission may be appealed to the Circuit Court of the County in which the principal office of the Commission is located, provided an appeal is taken within thirty days after such final determination of the Commission. Any person desiring to appeal, under this section shall file with the Commission or some member thereof, a notice in writing that he appeals to the Circuit Court, with at least one solvent surety payable to the County wherein the case will be tried, conditioned to prosecute such appeal to effect, and upon failure so to do, to pay all costs and damages which may be taxed against him by the Circuit Court on such appeal. Such bond to be approved by the Circuit Clerk of the County and any cause so appealed shall be tried *de novo* in said Circuit Court. The Commission shall at least every three months hold an examination for the purpose of determining the qualifications of any applicants to become barbers or barber apprentices, and shall conduct said examination in accordance with the provisions hereof and in accordance with the rules and regulations promulgated by said Commission not inconsistent with this Act. Said examinations to be conducted in the city, town, or village, where the principal office of the Commission is located. Section VI. Any person violating the provisions of this Act shall upon conviction be punished by a fine of not more than one hundred dollars, or by imprisonment for a term not to exceed six months, or by both fine and imprisonment in the discretion of the court. This provision shall have application to any officer or agent of a corporation, co-partnership, or association operated in violation of this Act. Any court of competent jurisdiction in said County shall have full power to try any violation of this act, and upon conviction the court may at its discretion revoke the license of the person, co-partnership, association, or corporation violating the terms hereof. Before the Commissioners herein provided for shall receive a commission and enter upon the discharge of their duties, each shall take and subscribe the oath provided by law to be taken by elective officers of the State of Alabama.

Section 2. The provisions of this Act having the effect of reducing the annual renewal license fee for barbers from the previous sum of fifteen dollars to seven dollars and fifty cents shall not become effective until January 1st, 1936.

Approved September 9, 1935.

No. 387)

(H. 496—Owen (Etowah))

## AN ACT

To amend Sections 7547, 7551, 7552, 7554, 7556, 7557, 7558, 7560, 7563, 7567, and 7596 of the Code of Alabama of 1923, and to repeal Section 7562 of said Code.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 7547 of the Code of Alabama be amended to read as follows: "7547. PRESUMPTION AS TO ACCEPTANCE OF PROVISIONS OF ARTICLE 2.—All contracts of employment made on or after the first day of January, 1936, shall be presumed to have been made with reference to and subject to the provisions of Article 2 of this chapter unless otherwise expressly stated in the contract in writing, or unless written or printed notice has been given by either party to the other, prior to the accident, as hereinafter provided, that he does not accept the provisions of said Article 2." All contracts of employment made prior to, and existing on, the first day of January, 1936, shall be presumed to continue from and after the first day of January, 1936, subject to and under the provisions of Article 2 of this chapter, unless on or prior to the first day of January, 1936, the parties have expressly agreed in writing to the contrary, or unless written or printed notice has been given by either party to the other, prior to the accident, as hereinafter provided, that he does not accept the provisions of said Article 2. Every employer and every employe shall be presumed to have accepted and come under Article 2 of this chapter and the provisions thereof relating to the payment and acceptance of compensation, unless, prior to the accident resulting in personal injury or death, he shall have given notice, as hereinafter provided, of his election not to accept or be bound by the provisions of said Article 2 of this chapter. "EMPLOYER'S NOTICE.—The employer shall post and keep posted in a conspicuous place in his factory, shop or place of business, where the employe is employed, a written or printed notice of his election not to accept or be bound by the provisions of Article 2 of this chapter, or he shall personally serve a copy of such notice on the employe; and he shall file a duplicate or copy of such notice with the Probate Judge of the county in which the employe is performing service under such employment. "EMPLOYEE'S NOTICE.—The employe shall give written or printed notice to the employer of his election not to accept or be bound by the provisions of said Article 2 of this chapter and he shall file a duplicate or copy thereof, with an affidavit of service on the employer attached thereto, with the Probate Judge of a county in which he does business. "The said notices shall be recorded by

the Probate Judge, for which he shall receive the usual fee for recording conveyances and a certified copy of any such recorded notice shall be presumptive evidence in any court in this State that such employer or such employe, as the case may be, has elected not to accept or come under Article 2 of this chapter."

Section 2. That Section 7551 of the Code of Alabama be amended to read as follows: "7551. SCHEDULE OF COMPENSATION.—Following is the schedule of compensation: "(a) For injury producing temporary total disability, fifty-five percent. of the average weekly earnings received at the time of injury, subject to a maximum compensation of eighteen dollars per week, and a minimum of five dollars per week; but if at the time of injury the employe received average weekly earnings of less than five dollars per week, then he shall receive the full amount of such average weekly earnings per week. This compensation shall be paid during the time of such disability, not, however, beyond three hundred weeks. Payments are to be made at the intervals when the earnings were payable, as nearly as may be, "(b) In all cases of temporary partial disability the compensation shall be fifty-five percent. of the difference between the average weekly earnings of the workman at the time of the injury and the average weekly earnings he is able to earn in his partially disabled condition. This compensation shall be paid during the period of such disability, not, however, beyond three hundred weeks, payments to be made at the intervals when the earnings were payable, as nearly as may be, and subject to the same maximum as stated in sub-section (a). If the injured employe who is receiving such compensation for temporary partial disability should leave the employment of the employer by whom he was employed at the time of the accident for which such compensation is being paid, he shall, upon securing employment elsewhere, give to such former employer an affidavit in writing containing the name of his new employer, the place of employment, and the amount of wages being received at such new employment, and until he gives such affidavit, the compensation for temporary partial disability shall cease. The employer by whom such employe was employed at the time of the accident for which such compensation is being paid may also at any time demand of such employe additional affidavit in writing, containing the name of his employer, the place of his employment, and the amount of wages he is receiving, and if the employe, upon such demand, fails or refuses to make and furnish such affidavit, his right to compensation for temporary partial disability shall cease until such affidavit is made and furnished. "(c) For permanent partial disability the compensation shall be based upon the extent of such disability. In cases included in the

following schedule the compensation shall be fifty-five percent. of the average weekly earnings, during the number of weeks set out in the schedule, to-wit: For the loss of a thumb, sixty weeks. For the loss of a first finger, commonly called index finger, forty-five weeks. For the loss of a second finger, thirty weeks. For the loss of a third finger, twenty weeks. For the loss of a fourth finger, commonly called little finger, fifteen weeks. The loss of the first phalange of the thumb, or of any finger, shall be considered as equal to the loss of one-half of such thumb, or finger, and compensation shall be paid at the prescribed rate during one-half of the time specified above for such thumb or finger. The loss of two or more phalanges shall be considered as the loss of the entire finger or thumb; but in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand. For the loss of a great toe, thirty weeks. For the loss of any of the toes other than the great toe, ten weeks. The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of such toe, and compensation shall be paid at the prescribed rate during one-half the time prescribed above for such toe. The loss of two or more phalanges shall be considered as the loss of entire toe. For the loss of a hand, one hundred and fifty weeks. For the loss of an arm, two hundred weeks. For the loss of a foot, one hundred and twenty-five weeks. For the loss of a leg, one hundred and seventy-five weeks. For the loss of an eye, one hundred weeks. For the complete and permanent loss of hearing in both ears, one hundred and fifty weeks. For the loss of an eye and a leg, three hundred and fifty weeks. For the loss of an eye and one arm, three hundred and fifty weeks. For the loss of an eye and a hand, three hundred and twenty-five weeks. For the loss of an eye and a foot, three hundred weeks. For the loss of two arms, other than at the shoulder, four hundred weeks. For the loss of two hands, four hundred weeks. For the loss of two legs, four hundred weeks. For the loss of one arm and the other hand, four hundred weeks. For the loss of one hand and one foot, four hundred weeks. For the loss of one leg and the other foot, four hundred weeks. For the loss of one hand and one leg, four hundred weeks. For the loss of one arm and one foot, four hundred weeks. For the loss of one arm and one leg, four hundred weeks. For serious disfigurement, not resulting from the loss of a member or other injury specifically compensated, materially affecting the employability of the injured person in the employment in which he was injured or other employment for which he is then qualified, fifty-five per cent. of the average weekly earnings for such period as the court may determine, not exceeding one hundred weeks.

Where an employe sustains concurrent injuries resulting in concurrent disabilities, he shall receive compensation only for the injury which entitles him to the largest amount of compensation, but this section shall not affect liability for the concurrent loss of more than one member for which members compensation is provided in the specific schedule and in sub-section (d) below. In all cases the permanent and total loss of the use of a member shall be considered as equivalent to the loss of that member, but in such cases the compensation in and by said schedule be in lieu of all other compensation. In case of permanent disability, due to injury to a member resulting in less than total loss of use of such member, not otherwise compensated in this schedule, compensation shall be paid at the prescribed rate during that part of the time specified in the schedule for the total loss or total loss of use of the respective member, which the extent of the injury to the member bears to its total loss. If an injured employe refuses employment suitable to his capacity, offered to or procured for him, he shall not be entitled to any compensation at any time during the continuance of such refusal unless at any time in the opinion of the judge of the circuit court of the county of his residence, such refusal is justifiable. All compensation provided in clause (c) of this section for loss of members, or loss of use of members, are subject to the same limitations as to maximum and minimum as stated in sub-section (a). In all other cases of permanent partial disability not above enumerated, the compensation shall be fifty-five per cent. of the difference between the average weekly earnings of the workman at the time of the injury and the average weekly earnings he is able to earn in his partially disabled condition subject to the same maximum as stated in sub-section (a). Compensation shall continue during disability, not, however, beyond three hundred weeks. In case the injured employe leaves the services of the employer for whom he was working at the time of the accident and accepts employment elsewhere, he shall make and furnish affidavit as to his new employment in the manner as required in sub-section (b) hereof. "(d) For permanent total disability as defined in sub-section (e) fifty-five per cent. of the average weekly earnings received at the time of the injury, subject to a maximum compensation of eighteen dollars per week, and a minimum compensation of five dollars per week; provided that if at the time of injury the employe was receiving earnings of less than five dollars per week, then he shall receive the full amount of his earnings per week. This compensation shall be paid during such permanent total disability, not exceeding five hundred and fifty weeks; but in all such cases drawing more compensation than five dollars per week, the pay-

ment after the first four hundred weeks shall be reduced to five dollars per week for the remainder of the five hundred and fifty weeks, while the permanent total disability continues; payment to be made at the intervals when the earnings were payable, as nearly as may be. Such payments, with the approval of the circuit judge, may be made monthly or quarterly. In case an employe, who is permanently and totally disabled becomes an inmate of a public institution, then no compensation shall be payable unless he has wholly dependent on him for support a person or persons named in Sections 7552 and 7553, whose dependency shall be determined as if the employe were deceased, in which case the compensation provided for in this sub-section shall be paid for the benefit of such person so dependent, during dependency, in the manner ordered by the court, while the employe is an inmate in such institution. "(e) The total and permanent loss of the sight of both eyes or the loss of both arms at the shoulder, or complete and permanent paralysis or total and permanent loss of mental faculties, which totally incapacitates the employe from working at an occupation which brings him an income, shall constitute permanent total disability. "(e) 1. If an employe has a permanent disability or has previously sustained another injury than that in which he received a subsequent permanent injury by accident such as is specified in the sections herein defining permanent injury, he shall be entitled to compensation only for the degree of injury that would have resulted from the latter accident if the earlier disability or injury had not existed. "(e) 1-1/2. If any employe has previously lost the sight of one eye or lost one leg or lost one arm, and thereafter in the same employment or in the employment of another he should by accident receive additional injuries so as to proximately cause the loss of sight of both eyes or the loss of both legs or the loss of both arms, said employe shall receive three-fourths of the amount provided hereunder for one who has received a permanent total disability and there shall be credited on said three-fourths amount any payments which said employe had received or may receive for his first disability. "(e) 2. For permanent total disability other than as defined in sub-section (e) fifty-five per cent. of the average weekly earnings received at the time of injury subject to a maximum compensation of eighteen dollars per week, and a minimum compensation of five dollars per week; but if at the time of the injury the employe was receiving earnings of less than five dollars per week, then he shall receive the full amount of his earnings per week. This compensation shall be paid during the period of such permanent disability not exceeding four hundred weeks; payments to be made at the intervals when the earnings were payable as nearly as may be. Such



payments, with the consent of the circuit judge, may be made monthly or quarterly. "(e) 3. If an employee received an injury for which compensation is payable while he is still receiving or entitled to compensation for a previous injury in the same employment, he shall not at the same time be entitled to compensation for both injuries, unless the later injury be a permanent injury, such as specified in this section; but he shall be entitled to compensation for that injury and from the time of that injury which will cover the longest period and the largest amount payable under Articles 1 and 2 of this chapter. "(e) 4. If an employee receives a permanent injury as specified in this section, after having sustained another permanent injury in the same employment, he shall be entitled to compensation for both injuries, but the total compensation shall be paid by extending the period and not be increasing the amount of weekly compensation, and in no case exceeding five hundred weeks. When the previous and subsequent injuries received in the same employment result in total disability, compensation shall be payable for permanent total disability, but payments made for the previous injury shall be deducted from the total payment of compensation due. "(f) In case a workman sustained an injury occasioned by an accident arising out of and in the course of his employment and during the period of disability caused thereby death results proximately therefrom, all payments previously made as compensation for such injury shall be deducted from the compensation, if any, due on account of death. "(f) 1. In all claims for compensation for hernia resulting from injury by an accident arising out of and in the course of his employment, it must be definitely proved to the satisfaction of the court: "1. That there was an injury resulting in hernia. "2. That the hernia appeared suddenly. "3. That it was accompanied by pain. "4. That the hernia immediately followed an accident. "5. That the hernia did not exist prior to the accident for which compensation is claimed. "All hernia, inguinal, femoral, or otherwise, so proved to be the result of an injury by accident arising out of and in the course of the employment shall be treated in a surgical manner by radical operation. In case the injured employee refuses to undergo the radical operation for the cure of said hernia, no compensation will be allowed during the time such refusal continues. If, however, it is shown that the employee has some chronic disease, or is otherwise in such physical condition that the court considers it unsafe for the employee to undergo said operation, the employee shall be paid as otherwise provided in this chapter. "(g) Compensation hereunder shall be computed on the basis of the average weekly earnings. Average weekly earnings shall mean the earnings of the injured employee in the employment in which

he was working at the time of the injury during the period of fifty-two weeks immediately preceding the date of the injury divided by fifty-two; but if the injured employe lost more than seven consecutive calendar days during such period although not in the same week, then the earnings for the remainder of such fifty-two weeks shall be divided by the number of weeks remaining after the time so lost has been deducted. Where the employment prior to the injury extended over a period of less than fifty-two weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof which the employe earned wages shall be followed, provided results just and fair to both parties will thereby be obtained. Where by reason of the shortness of the time during which the employe has been in the employment of his employer, or the casual nature or terms of the employment, it is impracticable to compute the average weekly earnings as above defined, regard shall be had to the average weekly amount which during the fifty-two weeks prior to the injury was being earned by a person in the same grade, employed at the same work by the same employer, and if there is no such person so employed, by a person in the same grade employed in the same class of employment in the same district. Wherever allowance of any character made to an employe in lieu of wages are specified as part of the wage contract, they shall be deemed a part of his earnings. "(h) Wherever in this section there is a provision for fifty-five per cent., such per cent. shall be increased five per cent. for a dependent wife and five per cent. for each dependent child of the employe under the age of eighteen years at the time of the injury to the employe until such per cent. shall reach a maximum of sixty-five per cent. The increase in the above per cent. shall be paid only during the dependency of the dependent upon whom such increase is based."

Section 3. That Section 7552 of the Code of Alabama be amended to read as follows: "7552. DEPENDENTS AND ALLOWANCES.—For the purposes of Article 2 of this chapter, the following described persons shall be conclusively presumed to be wholly dependent: "(a) Wife, unless it be shown that she was voluntarily living apart from her husband at the time of his injury or death, or unless it be shown that the husband was not in any way contributing to her support and had not in any way contributed to her support for more than twelve months next preceding the occurrence of the injury causing his death. "(b) Minor children under the age of eighteen years, and those over eighteen, if physically or mentally incapacitated from earning."

Section 4. That Section 7554 of the Code of Alabama be amended to read as follows: "7554. PARTIAL DEPENDENTS.

—(1) Any member of a class named in the preceding section who regularly derived part of his support from the earnings of the deceased workman at the time of his death and for a reasonable period of time immediately prior thereto, shall be considered his partial dependents and payment of compensation shall be made to such partial dependents in the order named. "Death Compensation. (a) In death cases, where the death results proximately from the accident within three years, compensation payable to dependents shall be computed on the following basis and shall be paid to the persons entitled thereto without administration, or to a guardian or such other person as the court may direct, for the use and benefit of the person entitled thereto. "(b) If the deceased employe leaves dependent widow and no dependent child, there shall be paid to the widow thirty-five per cent. of the average weekly earnings of the deceased. "(c) If the deceased employe leaves a dependent widow or dependent husband and one dependent child, there shall be paid to his widow or husband, for the benefit of herself or himself and such child, forty-five per cent. of the average weekly earnings of the deceased. "(d) If the deceased employe leaves a dependent widow or dependent husband and two dependent children, there shall be paid to the widow or husband for the benefit of herself or himself and such children, fifty-five per cent. of the average weekly earnings of the deceased. "(e) If the deceased employe leaves a dependent widow or dependent husband and three or more dependent children, there shall be paid to the widow or husband for the benefit of herself or himself and such children sixty-five per cent. of the average weekly earnings of the deceased. "(f) In all cases where compensation is payable to a widow or husband for the benefit of herself or himself and dependent child or children, the court shall at any time have the power to determine, in its discretion, what portion of the compensation shall be applied for the benefit of any such child or children and may order the same paid to a guardian."

Section 5. That Section 7556 of the Code of Alabama be amended to read as follows: "7556. DEATH COMPENSATION (continued). (a) If the deceased employe leaves a dependent child or dependent children and no dependent widow or dependent husband, there shall be paid, if only one child, thirty-five per cent. of the average weekly earnings of the deceased, and if more than one child, an additional ten per cent. of such average weekly earnings for each additional child, but not exceeding sixty-five per cent. of the average weekly earnings of the deceased. "(b) If the deceased employe leaves a dependent husband and no dependent child, there shall be paid to the husband twenty-five per cent. of the average weekly earnings of the deceased. "(c)

If the deceased employe leaves no widow or child or husband entitled to any payment hereunder, but leaves a parent or parents, either or both, of whom are wholly dependent on the deceased, there shall be paid, if only one parent, thirty-five per cent. of the average weekly earnings of the deceased, and if both parents, forty-five per cent. of the average weekly earnings of the deceased, to such parent or parents. "(d) If the deceased employe leaves no widow or child or husband or parent entitled to any payment hereunder, but leaves a grandparent, brother, sister, mother-in-law or father-in-law, wholly dependent on him for support, there shall be paid to such dependent, if but one, twenty-five per cent. of the average weekly earnings of the deceased, or if more than one, thirty-five per cent. of the average weekly earnings of the deceased, divided between or among them, share and share alike. "(e) Partial dependents shall be entitled to receive only that proportion of the benefits provided for total dependents, which the average amount of the earnings regularly contributed by the deceased employe to such partial dependent, at and for a reasonable time immediately prior to the injury, bore to the total income of the dependent during the same time. "(f) If the deceased employe leaves a dependent widow, or dependent husband, or dependent child, or dependent children, or two or more such dependents entitled to compensation, and the total compensation payable to all of such dependents is less than sixty-five per cent. of the average weekly earnings of the deceased employe and less than eighteen dollars a week, and the deceased employe also leaves a parent or parents wholly dependent on him for support, then such parent or such parents if more than one, shall, in the manner provided in sub-section (e) hereof, be paid such a per centage of the average weekly earnings of the deceased as is equal to the difference between sixty-five per cent. of the average weekly earnings of the deceased and the percentage of such earnings payable to such widow or husband and such child or children as is or are left by such deceased employe; provided that the maximum weekly compensation payable to such parent or parents under this sub-section shall not exceed the difference between eighteen dollars and the weekly compensation payable to such widow, or husband and child or children, as is or are left by the deceased employe. "(g) If compensation is being paid under Article 2 of this chapter to any dependent, such compensation shall cease upon the death or marriage of such dependent, unless otherwise provided in this Article. "Upon the cessation of compensation to or for any dependent, for any cause, the compensation of the remaining dependents entitled to compensation shall, for the unexpired period during which their compensation is payable, be that which would have been payable

to them had they been the only persons entitled to compensation at the time of the death of the deceased employee."

Section 6. That Section 7557, of the Code of Alabama be amended to read as follows: "7557. EXPENSES OF LAST SICKNESS AND BURIAL. In all cases where death results to an employe caused by an accident arising out of and in the course of his employment, the employer shall pay, in addition to the medical and hospital expenses provided for in section 7567, the expenses of burial, not exceeding in amount one hundred and twenty-five dollars except in case where an insurer of the deceased or a benefit association is liable therefor, or for a part thereof, in such case the employer shall not be required to pay any part of such expense for which such insurer or benefit association is liable, unless such non-payment by the employer would diminish the benefits received by the dependent of the deceased from any such insurer or benefit association. In case dispute arises as to the reasonable value of the services rendered in connection with the burial, the same shall be approved by the court before payment after such reasonable notice to interested parties as the court may require. If the deceased leaves no dependents, no compensation shall be payable, except as provided by this section."

Section 7. That Section 7558 of the Code of Alabama be amended to read as follows: "7558. DEATH COMPENSATION. The compensation payable in case of death to persons wholly dependent shall be subject to a maximum compensation of eighteen dollars per week and a minimum of five dollars per week; but if at the time of injury the employe receives earnings of less than five dollars per week, then the compensation shall be the full amount of such earnings per week. The compensation payable to partial dependents shall be subject to a maximum of eighteen dollars per week and a minimum of five dollars per week; but if the income loss of said partial dependent by such death is less than five dollars per week, then the dependents shall receive the full amount of their income loss. This compensation shall be paid during dependency, not exceeding three hundred weeks, payments to be made at the interval when the earnings were payable, as nearly as may be."

Section 8. That Section 7560 of the Code of Alabama be amended to read as follows: "7560. ORDER IN WHICH TOTAL DEPENDENTS TAKE.—Total dependents shall be entitled to take compensation in the order named in Section 7553 above until the per cent. of the average weekly earnings of the deceased during the time and as specified in Section 7558 shall have been exhausted; but the total compensation to be paid to all total dependents of a deceased employe shall not exceed in the

aggregate eighteen dollars per week, except as otherwise provided herein."

Section 9. That Section 7563 of the Code of Alabama be amended to read as follows: "7563. LIMITATIONS ON COMPENSATION.—In no case hereunder, except as otherwise provided herein, shall the compensation paid hereunder be more than eighteen dollars per week, nor less than five dollars per week."

Section 10. That Section 7567 of the Code of Alabama be amended to read as follows: "7567. MEDICAL, SURGICAL AND HOSPITAL SERVICE.—In addition to the compensation herein provided, the employer shall pay the actual cost of reasonably necessary medical and surgical treatment and attention, medicine, medical and surgical supplies, crutches and apparatus, as may be obtained by the injured employe during the first ninety days of disability, or in case of death within said ninety days, obtained during the period occurring between the time of the injury and his death therefrom. The total liability of the employer under this section shall not exceed the aggregate of two hundred dollars, and the pecuniary liability of the employer for such services rendered the employe shall be limited to such charges as prevail for similar treatment in the community where the injured employe resides. All cases of dispute as to the value of such services shall be determined by the tribunal having jurisdiction of the claim of the injured employe for compensation. Except in an emergency it is necessary, or in the event medical and surgical service and attention is not readily obtainable, under contract for same; or the employer does not promptly furnish the same, as hereinafter provided, if the employer shall furnish free of charge to the injured employe such medical and surgical treatment and attention, medical and surgical supplies, crutches and apparatus, he shall not be liable under this section, except for that he may fail to furnish, and in the event the injured employe obtains the same under a contract between him and another, or the employer, existing at the time of the injury, the employer shall be liable to pay, or repay, as the case may be, only the cost of the same under the terms of said contract, but in no event to exceed the aggregate of two hundred dollars as hereinabove provided. The employer may, if he so elects, furnish proper and efficient medical and surgical treatment, and attention and services herein provided for, free of charge to the injured employee during such ninety days or such time thereafter as he desires to furnish the same, and such employe shall accept the same. The injured employe must submit himself to the examination by the employer's physician at all reasonable times, if requested to do so by the employe but the employe shall have the right to have a physician of his own

selection present at such examination, in which case the employee shall be liable to such physician for his services. The employer shall pay for the services of the physician making the examination at the instance of the employer. And in case of dispute as to the injury, the court may, at the instance of either party, or of its own motion, appoint a neutral physician of good standing and ability to make an examination of the injured person and report his finding to the court, the expense of which examination shall be borne equally by the parties. If the injured employee refuses to comply with any reasonable request for examination, or refuses to submit to medical and surgical treatment and attention, or refuses to accept the medical service which the employer elects to furnish under the provisions of this chapter his right to compensation shall be suspended, and no compensation shall be payable for the period of such refusal. Any physician whose services are furnished or paid for by the employer, or any physician of the injured employee, and who treats or makes or is present at any examination of an injured employee may be required to testify as to any knowledge by him in the course of such treatment or examination as same relates to the injury or disability arising therefrom. In all death claims where the cause of death is obscure or is disputed, any interested party may require an autopsy, the cost of which is to be borne by the party demanding the same."

Section 11. That Section 7596 of the Code of Alabama be amended to read as follows: "7596. WORDS AND PHRASES DEFINED.—Throughout Articles 1 and 2 of this chapter the following words and phrases as used therein shall be considered to have the following meanings, respectively, unless the context shall clearly indicate a different meaning in the connection used. (a) The word 'compensation' has been used both in Article 1 and Article 2 of this chapter to indicate the money benefits to be paid on account of injury or death. Strictly speaking, the benefit which an employee may receive by action at law under Article 1 of this chapter is damages, and this is indicated in Section 7534. To avoid confusion, the word 'compensation' has been used in Articles 1 and 2 of this chapter, but it should be understood that under Article 1 the compensation by way of damages is determined by an action at law. (b) 'Child' or 'children' include posthumous children and all other children entitled by law to inherit as children of the deceased, also step-children who were members of the family of the deceased at the time of the accident, and dependent upon him for support, also a grandchild of the deceased employee, whose father is dead or is an invalid, and who was supported by, and a member of the family of, such deceased grandparent at the time of the accident. (c) A dependent child or orphan shall be considered to mean an unmarried child under the age of eighteen

years, or one over that age who is physically or mentally incapacitated from earnings. (d) The term 'employer' as used herein shall mean every person not excluded by Section 7543 who employs another to perform a service for hire and to whom the 'employer' directly pays wages, and shall include any person or corporation, co-partnership, or association, or group thereof, and shall, if the employer is insured, include his insurer as far as applicable and shall not include one who employs a number less than sixteen in any one business, unless such one has accepted the provisions of Articles 1 and 2 of this chapter. (e) The term 'physician' shall include 'surgeon', and in either case shall mean one authorized by law to practice his profession within one of the United States and in good standing in his profession at the time. (f) The term 'workman' shall include the plural and all ages of both sexes. (g) The terms 'employee' and 'workman' are used interchangeably and have the same meaning throughout Articles 1 and 2 of this chapter, and shall be construed to mean every person, not excluded by Section 7543, in the service of another, under any contract of hire, oral or written, express or implied. (h) The terms 'wages' and 'weekly wages', and such expressions shall, in all cases, unless the context clearly indicates a different meaning, be construed to mean 'average weekly earnings.' Every person, not excluded by Section 7543, in the service of another under any contract of hire, express or implied, oral or written, includes aliens, and also includes minors who are legally permitted to work under the laws of the State. Any reference herein to a workman or employee shall, where the employee is dead, include a reference to his dependents, as herein defined if the context so require. (i) The word 'accident' as used in the phrases 'personal injuries due to accident' or 'injuries or death caused by accident' in Articles 1 and 2 of this chapter shall, unless a different meaning is clearly indicated by the context, be construed to mean an unexpected or unforeseen event, happening suddenly and violently, with or without human fault, and producing at the time injury to the physical structure of the body, by accidental means. (j) Personal injuries, etc.—Without otherwise affecting either the meaning or interpretation of the abridged clause, injuries by an accident arising out of and in the course of his employment, it is hereby declared: Not to cover workmen except while engaged in, on, or about the premises where their services are being performed, or where their services requires their presence as a part of such service at the time of the accident, and during the hours of service as such workmen, and shall not include an injury caused by the act of a third person or fellow employee intended to injure the employee because of reasons personal to him, and not directed against him as an employee, or because of his employment, and



it shall not include a disease unless the disease results proximately from the accident. (k) Wherever in Articles 1 and 2 of this chapter, the singular is used, the plural shall be included; where the masculine gender is used, the feminine and neuter shall be included. (l) Amputations between the elbow and wrist shall be considered as the equivalent to the loss of a hand, and the amputation between the knee and ankle shall be considered as the equivalent of the loss of a foot. (m) 'The Court' as used herein shall mean the circuit court which would have jurisdiction in an ordinary civil case involving a claim for the injuries or death in question, and 'the judge' shall mean a judge of said court. Article 1 of this chapter shall not apply in cases where Article 2 becomes operative in accordance with the provisions thereof, but shall apply in all other cases, and such cases shall be in extension or modification of the common law."

Section 12. That Section 7562 of the Code of Alabama be repealed.

Section 13. That the enactment of this Act shall not affect any right or remedy, or cause of action, or defense thereto, of any employee or dependent, or of any employer, or of any person, firm or corporation, arising out of any accident occurring prior to January 1, 1936, under the Workmen's Compensation Law.

Section 14. That this Act shall become effective on the first day of January, 1936.

Approved September 9, 1935.

No. 388)

(H. 515—Hendley

## AN ACT

To Provide That Any And All Salaries, Fees, Commissions, Compensation, Funds Or Money Heretofore Received, Or Hereafter Received, Now, Or Hereafter In The Hands Or Possession Of Any Executive, Legislative Or Judicial Officer Or Any Public Officer, Or Of Any Officer Holding Any Civil Office Of Profit Under This State Or In Any County, Whether Elected Or Appointed, Or His Successor In Office, Or Their Successors In Office, Or His Respective Representative Or Agent, Personal Representative Or Successor In Interest, Affected By Or Within The Operation Of The Amendment To the Constitution Of Alabama, And Known As Article 24 Of The Constitution Of Alabama, And Duly Ratified The 18th Day Of July 1933, And Proclaimed Ratified On August 2, 1933, By The Governor, After Deducting The Reasonable Expenses Of Conducting The Office Of Such Officer Or Person Be Paid To The County And To The Credit Of The General Funds Of The County In Which Such Officer Or Person Is Now Or Has Been Performing Or Discharging His Official Duties, Or Be Paid Into The General Funds Of The State Of Alabama In Case Such Officer Or Person Is Now Or Has Been Performing Or Discharging His Official Duties For The State Of Alabama And For No Particular County; To Make A Full And Detailed Accounting Of Such Reasonable Expense Of Conducting Such Office; To Provide For A Penalty For Failure To Make Such Accountings

Of The Reasonable Expense Of Conducting Such Office, And To Make The Sureties On The Official Bonds Liable For Said Funds And For All Of The Penalties, And To Provide For The Procedure Of Collecting Such Funds From Such Officers; And To Declare Any Officer Who Neglects Or Fails To Make The Full And Detailed Accounting Of Such Reasonable Expense Of Conducting His Said Office, To Be Guilty Of A Misdemeanor, And To Provide For The Punishment Thereof; To Define The Annual Term Or Year For Or During Which The Limitation Of \$6,000.00 Provided For In Said Constitutional Amendment, And The Remaining Portion Of The Terms Thereof.

*Be it enacted by the Legislature of Alabama:*

Section 1. That any and all salaries, fees, commissions, compensation, funds or money heretofore received, or hereafter received, now, or hereafter in the hands or possession of any executive, legislative or judicial officer, or any public officer, or of any officer holding any civil office of profit under this State or any county, whether elected or appointed, or his successor in office or their successors in office, or his respective representative or agent, personal representative or successor in interest, affected by or within the operation of the Amendment to the Constitution of Alabama, and known as Article 24 of the Constitution of Alabama and duly ratified the 18th day of July, 1933, and proclaimed ratified on August 2, 1933, by the Governor, and which said Amendment fixes the maximum salary, fees, compensation or amount to be received by such officer or person, which said salaries, fees, compensation or funds are in excess of the salary, fees, compensation or amount due such officer or person and the reasonable expenses of conducting his office, and as allowed by said Amendment to the Constitution of Alabama, be and the same are hereby required to be paid over to the County and to the credit of the general funds of the county in which such officer or person is now or has been performing or discharging his official duties, but where the official duties of such officer or person are or were discharged and performed for the State of Alabama and in different counties over the State of Alabama, and for no particular county, then such excess of such fees, funds or money of such officer or person, after deducting the maximum salary of such officer or person and the reasonable expenses of conducting his office, and as allowed by said Amendment, are hereby required to be paid over to the State of Alabama, and to the credit of the general funds of the State of Alabama.

Section 2. That hereafter such officer or person be, and he is hereby required to make an accounting to the proper officials of his County or the State of Alabama, as the case may be, and pay over to his County or to the State of Alabama and to the credit of the general fund of his said County or said State of Alabama respectively, as the case may be, within ninety (90) days after this Act be-

comes effective, and within twelve (12) months thereafter, any and all fees, funds or money received by him in excess of his said salary or amount due him and the reasonable expense of conducting his said office, and at such times shall make a full and detailed accounting of such reasonable expense of conducting his said office. For the purposes of accounting and paying over any and all amounts due to be paid hereunder to Counties or State, the annual term or year for or during which the limitation of \$6,000.00 per annum, provided for in the Constitutional Amendment referred to in Section One hereof, shall be from September 1 to August 31 and the remaining portion of the year 1935 from September 1, 1935 to September 30, 1935 shall be prorated for and during the year from September 1, 1935 to August 31, 1936.

Section 3. That any officer who neglects or fails to make a full and detailed accounting required by this Act within the time provided in this Act shall be guilty of a misdemeanor and shall be punished accordingly.

Section 4. Any officer or deputy or clerk who fails to promptly make the payments herein provided for, and any officer, deputy, or clerk who fails to promptly make the reports herein provided for, shall be liable to his County or to the State of Alabama for the money due or to become due his County or State of Alabama, together with a penalty of one percent per month on the amount of money on hand which should be included in the remittance; this penalty to attach for failure to make the remittances or for failure to make the report required by this Act, and it shall be the duty of the officers, deputies and clerks receiving or handling such funds, and also their successors in office, representatives, agents, personal representatives, or successors in interest to make said report and remittances, and the sureties on the official bonds of all such officers, deputies and clerks shall be liable for said funds and for all of the penalties imposed by this Act, all of which may be recovered in appropriate proceedings in law and equity.

Section 5. That all laws or parts of laws in conflict with this Act are hereby expressly repealed.

Section 6. That this Act shall become effective immediately upon its passage and approval by the Governor.

Approved September 9, 1935.

## AN ACT

To create in all cities of the State of Alabama, which have a population of as much as two hundred thousand people according to the last Federal Census, or which shall have such population according to any such census that may be taken hereafter, a board of trustees of the firemen's pension and relief fund in connection with the regularly organized and paid fire departments of such cities; to provide for the organization of such board of trustees; to designate certain members of said board and provide the method and time of electing the remaining members thereof; to designate and provide for the selection of officers and agents of said board; to prescribe the powers and duties of said board and its officers and agents; to continue as trustees the members of such board as now exist under existing laws during the terms for which they have been elected, same to be trustees under this act in their respective cities which are governed by this act and where this law applies; to create in all such cities a firemen's pension and relief fund for the benefit and relief of disabled, sick, retired and other members of such fire department and the widows, minor children and dependent widowed mothers of such disabled and retired members; and to continue benefits and relief under this law to such as are receiving same under existing laws in such cities as are governed by this law; to declare the said Board of Trustees the trustees of such fund, to provide for the use, management and control of such funds; to provide for the raising of such fund and the sources thereof; to provide for the payment into such funds of the fines prescribed and imposed for the violation of certain ordinances of such cities; to provide for the payment into such fund of a certain percentage of the gross premiums, less returned premiums, received by fire insurance companies doing business within such cities, and for the making of a sworn report by such fire insurance companies of such premiums to the said board of trustees, and to prescribe the penalty for failure to make such payment and report, and for enforcing such penalty; to provide for sworn statements to be made to the Treasurer or Comptroller of such cities by all persons, firms or corporations which conduct a fire insurance agency or brokerage business within such cities, and to prescribe the penalty for failure to make and file such statements, and for enforcing such penalty; to provide for the payment into such fund dues to be collected from property owners who carry no fire insurance but who carry or set aside a reserve fund against loss or damage by fire or who carry insurance in or with fire insurance companies not authorized to do business in the State of Alabama, to provide for verified statements to be made by such property owners to the Commissioner of Insurance, to provide for the collection of such dues, and to prescribe the penalty for failure to make such payment and/or verified statement, and for enforcing such penalty; to provide for the payment into such fund of a portion of the monthly salary of each member of such fire department; to authorize, and empower such cities to pay into such fund a part of the revenue received from licenses issued by such cities; to transfer and convert into the respective Firemen's Pension and Relief funds as created and provided in this Act the respective funds and moneys and properties constituting Firemen's Pension and Relief funds as are existing respectfully under existing laws in Alabama in the cities which shall come under and be governed by the provisions of this Act; and to provide for the administration and use of same; to provide for the pensioning and relief of disabled, sick, retired and other members of such fire departments, and the widows, minor

children and dependent widowed mothers of such disabled and retired members; to provide for the payment of One Hundred (\$100.00) Dollars out of such funds, upon the death of an active or retired member of such fire department, to the beneficiary of such deceased member; to provide for fixing the status of paid members of the fire department of any City, Town, Suburb, or Settlement which may be annexed or become a part of Cities which shall come under and be governed by the provisions of this Act, relative to the retention of such paid members, and the granting of pensions and relief privileges to them; to provide for the retirement and reinstatement of members of such fire department; to prescribe the duties of the City Attorney and City Physician in connection with the said Board of Trustees and the said fund; to provide for medical examination and diagnosis of the physical or mental condition of sick or disabled members of such fire department; to designate the treasurer of such fund and his duties; to provide for the repeal of all laws and parts of laws in conflict herewith; to provide for the exemption of benefits of said fund from levy; to provide the time of taking effect of this Act.

*Be it enacted by the Legislature of Alabama:*

Section 1. That in all cities of the State of Alabama, which have a population of as much as two hundred thousand people according to the last Federal Census, or which shall have such population according to any such census that may be taken hereafter, there is hereby created in connection with the regularly organized and paid fire department of such cities a "board of trustees of the firemen's pension and relief fund," by which name the said board shall be known and called, to be composed as hereinafter provided and to be selected as hereinafter provided and directed; and in all such cities, there is hereby created a firemen's pension and relief fund, for the benefit of the persons hereinafter named, to be derived and raised in the manner hereinafter provided.

Section 2. That the said Board of Trustees of the Firemen's Pension and Relief Fund shall be composed of five members, consisting of the President of the Board of Commissioners of such cities or other executive head thereof, the chief or other head fireman of such fire department of such respective cities, and three members of such fire department of such cities, who shall be selected as hereinafter set forth and provided.

Section 3. That in the event the Civil Service Board of such cities, as are governed by the provisions of this Act, approves any applicant who is over the age of thirty years or any applicant who fails to pass such medical examination, as may be required by the said Civil Service Board, as a member of such fire department, such applicant shall be ineligible to become a member of the pension and relief fund, as provided in this Act, or to receive the benefits thereof. Be it further enacted, that in no event shall a pension be paid to an employee of such fire department, who, at the time of his employment, was over thirty years of age, nor to any employee who has failed to pass the medical examination required by the

said Civil Service Board; provided, however, that the provisions of this Section shall in no way apply to the present members of such fire department, nor shall the provisions of this Section, apply, in any way, to any retired member of such fire department or other person who is on the pension list or roll of such fire department at the time of the passage of this Act; provided, further, that when a member of such fire department is ineligible to participate in the benefits of said pension and relief fund, by reason of the provisions of this Section, neither said member, nor his salary, shall be subject to an assessment for the benefit of said fund.

Section 4. In the event any City, Town, Suburb or Settlement, which has a fire department with paid members, is annexed to or becomes a part of such cities which are governed by the provisions of this Act, such paid members shall, within thirty days of such event, be subject to a medical examination which shall be provided by said Board of Trustees of the Firemen's Pension and Relief Fund, and said Board of Trustees shall have the power and authority to determine and declare which of such paid members shall be eligible or ineligible to become a member of the pension and relief fund, as provided in this Act, or receive the benefits thereof, and such determination or decision of said Board of Trustees shall be final and conclusive and shall not be subject to review, except by said Board of Trustees. The right to become a member of the pension and relief fund, or receive the benefits thereof, shall be effective as of the date such eligible paid member is retained or employed as a member of the fire department of such city as is governed by the provisions of this Act. In no event shall such paid members who are over the age of thirty years, at the time of such medical examination, or who fail to pass such medical examination, be eligible to become a member of the pension and relief fund, as provided in this Act, or to receive the benefits thereof; provided, however, that the provisions of this Section shall in no way limit the power of the governing body of such cities which are under the provisions of this Act from retaining as members of the fire department of such cities, such members who are over thirty years of age or who fail to pass the medical examination, as herein provided; provided, further, that when such member of such fire department is declared to be ineligible to participate in the benefits of the pension and relief fund, by reason of the provisions herein, neither said member, nor his salary, shall be subject to an assessment for the benefit of said fund.

Section 5. That in all cities governed and coming under the provisions of this Act where there is now existing a Board of Trustees of the Firemen's Pension and Relief Fund as created and provided under an existing law of Alabama, the members of such board or boards shall compose the first Board of Trustees in their

respective cities under this Act and shall continue as such Trustees in their respective cities under the provisions of this Act for their respective terms and until their successors be elected and qualified, and shall hold and control all moneys, funds and properties of whatever kind and character there may be in or connected with such existing fund for distribution and handling and the uses as provided for herein, and shall administer such additional funds, moneys and property as may be created and come under their jurisdiction as provided for in this Act in their respective cities.

Section 6. The chief or other head fireman of such fire department of such respective cities shall not less than ten days before the first Tuesday in January of each year hereafter designate a day for holding a convention to nominate a trustee or trustees for election as such; and the time for holding such convention shall be fixed not less than five days before the time for holding such election. The delegates to such convention shall consist of one delegate from each fire company in such respective cities, who shall be elected by ballot by the members of such company at the time fixed by the chief or other head fireman of such fire department, in the call for such convention. The election of such delegates shall be certified by the captain or other officer in charge of such company, and if there be no officer in charge of such company, then by the oldest member thereof present at such convention. Such convention, when convened shall nominate as candidates five members of the fire department to be voted for as such trustee for every trustee then to be elected. And the names of the persons so nominated as candidates, shall, by the delegates to such convention, be reported in writing to their respective companies. The said election shall be held at the respective houses or quarters of the respective companies on the day named as aforesaid, between the hours of nine o'clock in the forenoon and six o'clock in the afternoon. Every member of such fire company shall be entitled to one ballot, and every ballot shall contain the names of the candidates so nominated, and each member of the department shall be entitled to vote by placing a cross mark opposite the name of his choice for trustee or trustees. The candidate receiving the highest number of votes for the position in which the term has expired shall hold office as such trustee for three years. The captain or other officer in command of such fire companies, respectively, or if there be no officer in charge thereof, then the oldest member thereof, on the day of and immediately after the casting of such ballots, shall canvass and count the same, and certify in writing the number of ballots cast and the number of ballots received by each candidate for the office of trustee. After signing such certificate, such officer or other person shall enclose the same to the chief or other head of such fire department, together with all

the ballots cast by said fire company, in an envelope, securely sealed and addressed; and the chief or other head of such fire department, as soon as all such certificates and ballots shall have been received by him, shall deliver the same to the President of the Board of Commissioners or other executive head of such respective cities, who shall, in the presence of the chief or other head of such fire department, open said envelope, examine said certificates, and ascertain and determine the total number of ballots cast at said election for each of the candidates as such trustee, and shall issue certificates of election as such trustee to the candidate receiving the highest number of votes as aforesaid. In case any two or more candidates shall have received the same number of votes, so that there would be no choice under the foregoing provision, then the President of the Board of Commissioners or other executive head of such respective cities shall forthwith determine by lot who shall be the trustee from the persons so receiving such equal number of votes. No election shall be set aside for want of formality in balloting by such members, or in certifying or transmitting returns of any such election by the officers or persons in charge thereof.

Section 7. That the regular annual election shall be held on the first Tuesday in January of each year. At such annual election, one trustee shall be elected for a term of three years; and any vacancy may be filled by election as herein provided. Should a vacancy occur in the membership of the board same shall at the first meeting after the vacancy occurs be filled by the remaining members of the board, same to be thus filled until the next regular election of trustee, and a member shall then be elected to fill the vacancy for the unexpired term.

Section 8. The chief or other head fireman of such fire department shall be the President of the said Board of Trustees of the Firemen's Pension and Relief Fund. At the first meeting after each election; the Board of Trustees shall elect a Secretary, who may be chosen from their own number; provided, that if said Board of Trustees deem proper, the Secretary, who shall be a member of such fire department, may be elected by the companies, under the provisions of this Act relating to the election of trustees, to serve for a term of three years. It shall be the duty of the Secretary to keep, in a book provided for that purpose, a full and complete record of all proceedings of the Board of Trustees, and he shall perform such other duties as may be properly assigned to him by the Board of Trustees.

Section 9. The City Treasurer or other custodian of the funds of such city is hereby made, and it shall be his duty to be, the custodian of all moneys belonging to the Firemen's Pension and Relief Fund, and all moneys belonging to such fund shall be



promptly paid to him. The said Treasurer shall also be the custodian of all securities and things of value belonging to such fund. He shall be liable on his official bond for the faithful performance of the duties imposed upon him under this Act, and for the faithful accounting for all moneys, securities, and things of value which may come into his hands as such treasurer of such fund, and he shall keep a separate account thereof, which shall at all times show the true condition of such fund. Upon the expiration of his term of office, such treasurer shall surrender and deliver up to his successor all bonds, securities, and all unexpended moneys or other properties which may have come into his hands as treasurer of such fund.

Section 10. That the said Board of Trustees of the Firemen's Pension and Relief Fund is hereby declared to be the trustee of said Firemen's Pension and Relief Fund, and shall have the exclusive management and control thereof, and all matters legitimately connected therewith; and said Board of Trustees shall have power to adopt and enforce such rules and regulations as may be necessary to enable it to effectively and properly carry into execution the purposes for which it was organized, and to enable it to properly manage and conduct the business and affairs entrusted to it, provided such rules and regulations shall in no wise contravene the provisions of this Act, but shall be in conformity thereto. The said Board of Trustees shall hear and decide all applications for pensions or relief under this Act and its decisions on such applications shall be final and conclusive, and not subject to review or reversal, except by the said Board. The said Board of Trustees shall cause to be kept a record of all its meetings and proceedings.

Section 11. That the said Firemen's Pension and Relief Fund shall consist of the following, namely: A. Of all moneys that may be given or donated to said fund by any person, firm, association or corporation for the uses and purposes for which said fund is created; and said board may take by gift, grant, devise or bequest any money, personal property, real estate or any interest therein or any right of property, for the benefit of said fund; and such gift, grant, devise, or bequest, may be absolute or in fee simple or upon condition that only the rents, income and profits arising therefrom shall be applied to the purposes for which said fund is created; and also of existing funds as provided in Section 12 hereof. B. That two per cent of the monthly salary of each member of such fire department shall be deducted, which shall be placed by the Treasurer or Comptroller of such City to the credit of the said Firemen's Pension and Relief Fund. C. That each fire insurance company, whether a mutual company or otherwise, qualified to do business under the laws of Alabama, and doing business in such

city, shall annually and on or before the first day of March of each year hereafter, pay into said Firemen's Pension and Relief Fund, a sum equal to one and one-half per centum of the gross premiums, less returned premiums, received by such fire insurance company for and on account of business, including all renewals of fire insurance, done by it in such city, during the preceding year; and it shall not be lawful for such fire insurance company or its agent, to take or receive any premium for insurance against fire within such city, unless such fire insurance company shall pay, at the time aforesaid, to the said Firemen's Pension and Relief Fund, the amount herein provided to be paid by such fire insurance company; and any such fire insurance company violating the provisions of this Act shall forfeit to the said Firemen's Pension and Relief Fund the sum of One Thousand Dollars, to be recovered against such fire insurance company so violating said provisions, or its agent, by suit brought in the name of the said Board of Trustees of the Firemen's Pension and Relief Fund; that each person, firm, or corporation, which conducts a fire insurance agency or brokerage business in such city, shall annually, and on or before the first day of each year, make and file a sworn statement in writing, with the Treasurer or Comptroller of such city, as Treasurer of such fund, giving the name and address of each fire insurance company which such person, firm or corporation represented or did business for, as agent or broker, during the preceding year; and any such person, firm or corporation violating the provisions of this Act shall forfeit to the said Firemen's Pension and Relief Fund the sum of \$100.00 to be recovered against such person, firm or corporation, so violating such provisions, by suit brought in the name of the said Board of Trustees of the Firemen's Pension and Relief Fund; and all such forfeitures and penalties, provided for herein, shall be and become a part of said Firemen's Pension and Relief Fund. D. That the owner of any property situated in any city of the State of Alabama, having a population of as much as two hundred thousand people according to the last Federal Census, or which shall have such population according to any such census that may be taken hereafter, shall, upon the demand of the Commissioner of Insurance of the State of Alabama, furnish to such Commissioner a written statement, verified by affidavit, which statement shall show the description and location of the property and the amount of insurance such owner has effected against loss or damage by fire, the number of the policy or policies, the name and location of the company or companies which issued such policy or policies and the amount of the premium or premiums paid on such policy or policies; and, if such owner has not insured his property against loss or damage by fire with any insurance company, but has paid into an insurance fund or set aside a reserve

against loss or damage by fire to such property, he shall furnish such Commissioner a verified statement which shall show the amount paid into or credited to any insurance fund or other reserve against loss or damage by fire. If such statement is not furnished by such owner, as above required, said Commissioner shall issue a written demand, and cause the same to be served on any company, corporation, association, individual or individuals so failing to furnish such verified statement, to furnish such statement. Every such company, corporation, association, individual or individuals, who wilfully neglects to furnish such statement, or who shall for thirty days after the receipt or service of said written demand of said Commissioner, refuse or neglect to render such statement, shall forfeit the sum of Fifty Dollars to the State of Alabama, and shall forfeit an additional Fifty Dollars to the State of Alabama, for each day's refusal or neglect, so to do, after the expiration of said thirty days. If such statement, as provided herein, discloses that such owner has insured such property against loss or damage by fire in or with any company which is not authorized to do business in the State of Alabama, or that such owner has not insured his, her, their or its property against loss or damage by fire with any insurance company, but has set aside, paid into, or credited to any insurance fund or other reserve against loss or damage to such property by fire, said Commissioner shall be and he is hereby authorized and empowered to collect from such property owner an amount equal to four per centum of the annual gross premium which insurance companies authorized to do business in the State of Alabama would have charged, under the prevailing rate, for insuring such property in the amount carried by such unauthorized insurance company, or in the amount of such reserve against loss or damage by fire, so credited or set aside to any insurance fund or other reserve against loss or damage by fire, by such owner. Said per centum, so collected, as provided herein, shall be paid annually and on or before the first day of March of each year hereafter, and such per centum, when not paid, as required by the terms and conditions of this Sub-section, shall be recoverable by civil action or suit which shall be brought in the name of the State of Alabama. All sums, except the penalties payable to the State of Alabama, as hereinabove provided, collected under the provisions of this Subsection shall be payable to the Treasurer of the Firemen's Pension and Relief Fund of the City in which said property is situated, and shall be disbursed and used for the same purposes and under the same conditions as is provided by this Act. E. The Board of City Commissioners or other governing body of such City, is hereby authorized, and empowered to set apart for, and pay into, the said Firemen's Pension and Relief Fund, not exceeding one per centum of all revenues col-

lected and received by such city from licenses issued by such city. Provided, however, that the said sum equal to one and one-half per centum of gross premiums, less return premiums, required by paragraph (c) of this Section 11 to be paid by Fire Insurance Companies into said Firemen's Pension and Relief Fund shall be treated and held to be a part of the maximum of four per cent. (4%) on each One Hundred Dollars, or major fraction thereof, of gross premiums, less return premiums, which any municipal corporation may by law impose upon any Fire Insurance Company in any one year as a license or privilege tax for the privilege of doing business in such municipality during such year under Schedule 160.10 of Section 348, Chapter 8 Article 13 of the General Revenue Act of 1935 approved July 10th, 1935.

Section 12. Existing funds and property belonging to or a part of the Firemen's Pension and Relief Funds, in the respective cities governed by the provisions of this Act, shall be held and administered, used and governed, in the respective cities affected hereby, and transferred and converted into the Firemen's Pension and Relief Fund, in such cities, respectfully, as provided herein, immediately upon this law becoming effective.

Section 13. That the Board of Trustees of said Firemen's Pension and Relief Fund may, at any time, after considering the probable demands upon such fund in the near future, determine what portion of such fund may be safely withdrawn for investment for revenue purposes, and having determined what portion thereof shall be so withdrawn for that purpose, said Board of Trustees, shall then determine in what manner such investment shall be made, and all proceedings of the said Board of Trustees relating thereto shall be entered at length upon its records. Such investment shall only be by the purchase of the interest bearing bonds of the United States of America, or of the State of Alabama, or of any bonds lawfully issued by such city, or by investing in valid first mortgages on improved real estate in such city to an amount not exceeding fifty per centum of the value of such real estate, the title to such real estate to be marketable and to be approved by the City Attorney of such city or other reputable attorney who shall give his written opinion thereon. All income from such investments shall be and become a part of the said Firemen's Pension and Relief Fund. All such securities shall be deposited with the Treasurer of the said Firemen's Pension and Relief Fund, and shall be subject to the management and control of the said Board of Trustees of the Firemen's Pension and Relief Fund.

Section 14. That the said Board of Trustees of the Firemen's Pension and Relief Fund shall make a report to the Board of City Commissioners, or other governing body, of such city, and to each company of such fire department in such city, of the condition

of such Firemen's Pension and Relief Fund on the first day of January of each and every year.

Section 15. That the said Board of Trustees of the Firemen's Pension and Relief Fund may designate the depository or depositories of such Firemen's Pension and Relief Fund, and it shall be the duty of the treasurer of such fund to make deposits of such funds as directed by the said Board of Trustees. All interests received on such deposits shall be and become a part of such fund.

Section 16. That all moneys ordered to be paid from said Firemen's Pension and Relief Fund shall be paid by the Treasurer of such fund only upon warrants signed by the President of the said Board of Trustees and countersigned by the Secretary thereof; and no warrant shall be drawn on such fund except by order of the said Board of Trustees, which shall be duly and regularly entered in the record of the proceedings of the said Board of Trustees.

Section 17. That no portion of the said Firemen's Pension and Relief Fund shall, before or after its order for distribution by the said Board of Trustees to the person or persons entitled thereto under the provisions of this Act, be held, seized, taken, subjected to, detained, or levied upon, by virtue of any attachment, garnishment, execution, injunction, writ, order, decree, or any other process whatsoever, issued out of or by any court of this State, for the payment or satisfaction, in whole or in part, of any debt, damage, demand, claim, judgment, or decree, against any beneficiary of such fund; but shall be exempt therefrom. That said fund shall be sacredly kept, held and distributed for the purposes named in this Act, and for no other purpose whatsoever.

Section 18. That if at any time there shall not be sufficient money in such Firemen's Pension and Relief Fund to pay each person entitled to the benefit thereof the full amount per month as herein provided, then an equal percentage of such monthly payment or payments shall be made to each beneficiary until the said fund shall be replenished to warrant the payment in full to each of the said beneficiaries.

Section 19. The provisions of this Act in relation to Firemen's Pension and Relief Fund shall apply to all persons now receiving pensions and/or relief from the Firemen's Pension and Relief Fund of any such city, who have been placed on such pension or relief roll under any former law or laws, and shall also apply to all cases in which an application for pension or relief is now pending before any such Board of Trustees.

Section 20. That if any member of such Fire Department, while in the performance of his duty, become and be found to be temporarily totally disabled, mentally or physically, for service in such fire department, by reason of service therein, the said Board of Trustees shall order the payment of such disabled member,

monthly, during such total disability, not to exceed one year in any event, from such fund, a sum equal to two-thirds of the monthly compensation allowed such member as salary in such fire department at the date of his disability; provided such member, during the same period, is paid no salary as such member.

Section 21. That if any member of such fire department, while in the performance of his duty, become or be found to be physically or mentally permanently disabled for service in such fire department, by reason of service therein, so as to render his retirement from such service necessary, said Board of Trustees shall retire such disabled member from service in such fire department, and upon such retirement, said Board of Trustees shall order the payment to such disabled member, monthly, from such fund, a sum equal to the designated per cent of pay of his particular position, office or class of work in said fire department as set out in table of pensions set forth in Section 25 hereof.

Section 22. That the said Board of Trustees, with the approval of the city physician, or other reputable examining physician to be selected by it, shall have the power to retire from service in such fire department any member thereof who has become disabled while in the actual performance of his duty; or any member who has performed faithful service in such fire department for a period of not less than ten consecutive years; and shall in each case place the member so retired on the pension roll, and he shall receive from such fund a sum equal to the designated per cent of pay of his particular position, office or class of work in said fire department as set out in table of pensions in Section 25 hereof, which said sum shall be so paid to him monthly.

Section 23. That any member of such fire department who has been in the service thereof for as long as twenty years, the last five of which is consecutive, and shall have attained the age of fifty-five years, upon making written application to the said Board of Trustees therefor, shall without medical examination or disability, be retired from service in such fire department; and upon such retirement, the said Board of Trustees shall direct payment to such retired member, monthly, from such fund, a sum equal to eighty per cent of the designated per cent. of pay of his particular position, office, or class of work in such department as set out in table of pensions in Section 25 hereof.

Section 24. That any member of such fire department who has been in the service thereof for as long as twenty-five years, the last five of which is consecutive, upon making written application to the Board of Trustees therefor, shall, without medical examination or disability, be retired from service in such fire department; and upon such retirement, the said Board of Trustees shall direct the payment to such retired member, monthly, from such fund, a

sum equal to the designated per cent of pay of his particular position, office or class of work in said fire department as set out in table of pensions in Section 25 hereof.

Section 25. That all pensions and relief and retirement pay provided for in this Act shall be on a graduating scale and shall increase or decrease in accord with the increase or decrease of the salaries of active members of such fire department and is and shall be fixed as stated in the following table of pensions, unless the pay is otherwise provided for in this Act, namely: First, second and third class fireman, sixty-five per cent of a first class fireman's pay. All higher salaried members, sixty-five per cent of a first class fireman's pay plus ten per cent of the amount of the difference between their respective salaries and the salary of a first class fireman. No pensioner shall receive more than eighty per cent of a first class fireman's pay except that nothing herein contained shall have the effect of reducing the pension of any pensioner retired as Chief of the Fire Department below the sum of one hundred dollars per month, it being the intent hereof that such pensioner so retired as such chief shall in all events receive a minimum monthly benefit of one hundred dollars or more.

Section 26. That after any member of such fire department shall have retired upon pension by reason of disability, the said Board of Trustees shall have the right, at any time, to cause such retired member to be brought before it and again examined by the City physician and other competent physicians and surgeons, to be selected by it, and also to examine other witnesses for the purpose of discovering whether such disability yet continues, and whether such retired member should be continued on the pension roll, but such retired member shall remain upon the pension roll until reinstated in the active service of such fire department. Such retired member shall be entitled to notice, and to be present at the hearing of any such evidence, shall be permitted to propound any questions pertinent or relevant to such matter, and shall also have the right to introduce upon his own behalf any competent evidence he may see fit. All witnesses so produced shall be examined under oath; and any member of such Board of Trustees is hereby authorized and empowered to administer such oath to such witnesses. The decision of such Board of Trustees shall be final and conclusive and no appeal shall be allowed therefrom, nor shall the same be subject to review or reversal, except by said Board of Trustees.

Section 27. That if any member of such fire department shall, while in the performance of his duty, be killed or dies as a result of any injury received in the line of his duty, or of any disease contracted by reason of his service in such fire department, or shall die from any cause whatsoever as the result of his service in such

fire department and while in such service; or after having served in such fire department for five consecutive years or more shall die, while in the service, or on the retired list, from any cause, and shall leave a widow to whom he was married at the time of such retirement, or child or children under the age of sixteen years, surviving, said board shall direct the payment from said fund, monthly, to such widow, during her natural life and while unmarried, a sum equal to 30% of a first class fireman's salary, and for each child until it reaches the age of sixteen years, a sum equal to 10% of a first class fireman's salary, which said sum for the benefit of such child or children shall be paid, monthly, to only their legal guardian. Should such deceased member leave no widow or children, but a widowed mother, dependent upon him for support, the said Board of Trustees shall pay to her, during her natural life and so long as she remains unmarried, a sum equal to 30% of a first class fireman's salary, said sum to be paid her monthly. The sums herein provided to be paid widows, orphans and dependent mothers of deceased members shall be on a graduating scale, and increased or decreased according to the salary of active members of such fire department.

Section 28. That whenever an active or retired member of such fire department shall die as aforesaid, the said Board of Trustees shall, in addition to the sums paid as benefits to any disabled, retired or discharged member of such fire department, or his dependents, as provided for under this Act, appropriate from the said fund the sum of One Hundred Dollars which shall be paid to the beneficiary of such deceased member; and the said Board of Trustees may, in its discretion, order the payment of a sum not exceeding fifty dollars for the expense of the attendance of the members of such fire department at the funeral of such deceased member.

Section 29. That when any member of such department shall be confined to his bed, or under the necessary care of a physician, by reason of sickness or other disability not hereinabove provided for, for as long a period as seven days, the said Board of Trustees shall direct the payment to such member from such fund of the sum of fourteen dollars, weekly, while so confined, not to exceed in any event twelve weeks; provided, however, such member shall not be entitled to any benefits or relief under this section, if such sickness or disability shall be caused by dissipation, immoral conduct or vicious habits.

Section 30. That in all matters involving the disability or sickness of members of such fire department, the said Board of Trustees may have such disabled member, if it sees fit, examined by the City Physician, or such other reputable physician or surgeon as may be selected by it, who shall report to the said Board of



Trustees the result of such examination in writing; and it is hereby made the duty of such City Physician when requested so to do by the said Board of Trustees, to make such examinations and to report thereon as aforesaid; provided, however, such disabled or sick members of such fire department shall have the right, at their option, to select any physician or surgeon who shall be present and participate in such examination, and in the event such physician or surgeon, so selected, and the physician or surgeon, selected by said Board of Trustees, cannot agree as to the diagnosis or condition of such disabled or sick member, then both of said physicians or surgeons shall select a third physician or surgeon who shall also examine such disabled or sick member, and the opinion of the majority of the three physicians or surgeons, so selected, as to such member's condition, shall be binding and shall be accepted by said Board of Trustees.

Section 31. That after a member of such fire department shall have served in such fire department for fifteen consecutive years and shall be discharged from such fire department, he shall be entitled to receive from such fund, monthly, thirty dollars, which shall be ordered to be paid to him as aforesaid by the said Board of Trustees; provided such discharge is for any other offense than a criminal act.

Section 32. That there shall be kept by the secretary of the Board of Trustees a book to be known as the List of Retired Firemen. Such book shall also give a full and complete history and record of the action of the said Board of Trustees in retiring any and all persons under this Act, showing the names, date of entering the service of such fire department, date of retirement, and the reason for such retirement, if any.

Section 33. That when the widow or children or widowed mother, or either of them, shall be entitled to a pension as provided in this Act, such widow or children or widowed mother shall make or cause to be made an application to the Board of Trustees through the Secretary of such Board, on a form to be provided by said Board, which shall show, in the case of the widow, proof of the marriage of the deceased to the claimant, by marriage certificate or other competent evidence; and proof of the widowhood of the mother of such deceased member, and her dependency for support upon him, shall be shown by affidavits of such widowed mother or disinterested persons; and the birth and ages of such children shall be shown by affidavits of the mother of such children; or disinterested persons, and by any other competent evidence. All applications and proofs shall be kept and retained in the custody of the said Board of Trustees.

Section 34. That it shall be the duty of the city attorney of such city to give advice to the said Board of Trustees in all mat-

ters pertaining to the duties of the said Board of Trustees and the management of such fund, whenever requested to do so, and he shall represent and defend the said Board of Trustees as its attorney in all suits and actions at law or in equity that may be brought against it, and during all suits and actions in its behalf that may be required or determined upon by said Board of Trustees; and the said Board of Trustees shall have the authority to employ such other counsel as it may see fit in such matters, and to pay out of such fund reasonable attorney's fee to such counsel as it may employ as aforesaid.

Section 35. That said Board of Trustees shall be authorized to pay out of such fund all reasonable and necessary expenses that may be incurred by it in and about the performance of its duties under this Act and in and about the management and administration of such fund; provided that in no event shall the members of said Board of Trustees receive any salary or compensation for their services out of said fund.

Section 36. That each fire insurance company doing business in such city shall file with the said Board of Trustees, on or before the first day of March of each year, a statement or report in writing, showing the gross amount of premiums, less returned premiums received by such fire insurance company for and on account of business done by it in such city during the preceding year; which such statement or report shall be sworn to by the agent of such fire insurance company in such city, or some other person having knowledge of the facts; and any such fire insurance company failing to make and file such report and statement as aforesaid, shall be subject to the same penalties as are provided in Subdivision C of Section 11 of this Act, to be collected as in said Subdivision C provided, for the benefit of such fund.

Section 37. That if any section or provision of this Act shall be held or declared to be unconstitutional or void, it shall not effect or destroy the validity or constitutionality of any other section or provision of this Act which is not, of itself, void or unconstitutional. And every Section and part thereof in this Act shall apply to every City as indicated and provided herein—words written in the singular number to be construed so that same shall so apply and govern.

Section 38. That this Act shall take effect from and after its approval by the Governor, or upon its otherwise becoming a law under Section 125 of the Constitution.

Section 39. That all laws and parts of laws in conflict with the provisions of this Act be and the same are hereby repealed.

Approved September 9, 1935.

No. 390)

(H. 542—Chichester.

## AN ACT

To amend subdivision 2 of Section 9896 of the Code of Alabama, 1923, as amended by an act entitled, "An Act to amend paragraphs (f) and (g) of Section 9879 and Section 9880 of the Code of Alabama, 1923, as amended by an Act entitled, 'An Act to amend Section 9879 and 9880 of the Code of Alabama, 1923' approved by the Governor, September 9th, 1927; also to amend Sections 9878, 9885, 9887, 9890, 9891, 9892, 9896, 9899, and 5402 of the Code of Alabama, 1923; and to provide for the registration of securities, dealers in and salesmen of securities and the regulation, supervision, suspension, cancellation and revocation thereof; and to fix penalties and to provide remedies for the violation of this act; and to provide for the protection of the public (purchasers and holders of securities) by injunction, receivership and other equitable remedies at the instance of the State of Alabama." Approved by the Governor, July 28th, 1931 (General Acts of Alabama, 1931, pages 783-801.)

*Be it enacted by the Legislature of Alabama:—*

Section 1. That subdivision 2 of Section 9896 of the 1923 Code of Alabama, as amended by Senate Bill 383, Alabama General Laws, 1931, pages 783-801, be amended so as to read as follows:—  
 2. DEALERS AND SALESMEN, BONDS OF:—Before any dealer or salesman shall sell or offer for sale any security required to be registered under the provisions of this Act, such dealer or salesman shall enter into a bond for not less than five thousand dollars (\$5,000.00) in the case of such dealer, and not less than five hundred dollars (\$500.00) in the case of such salesman, which said bond shall be payable to the State of Alabama and which shall be executed by a surety or sureties acceptable to the Commission. Said bond shall be in such form as the Commission shall, from time to time designate and shall be conditioned for the faithful accounting for all moneys and/or securities of another and for the payment of any judgment rendered by a court of competent jurisdiction against any such dealer and/or salesman, one or both in any action at law or suit in equity in Alabama based upon fraud or misrepresentation in the sale in Alabama of any such security. Any original purchaser of securities from or through any such registered dealer or salesman or other person damaged by any breach in the conditions of said bond shall have a right of action upon said bond for the damages suffered thereby. Any such cause of action shall be commenced within one year after such cause of action arose or within one year from the discovery of the fraud, but in no case to extend beyond one year from the cancellation of the registration, the revocation thereof or the discharge of such dealer or salesman from further supervision under this Act, and any such cause of action not commenced within such time as herein limited shall be forever barred. One or more recoveries upon such

bond shall not vitiate the same, but the aggregate amount of such recoveries thereon shall not exceed the amount of such bond. Any recovery on such bond shall be sufficient cause for cancelling or revoking such dealer's or salesman's registration. Any person and/or issuer, employing salesmen, is hereby given the right, in lieu of the bonds herein provided for, to enter into a blanket bond, for not more than five thousand dollars (\$5,000.00) conditioned and in the form herein provided for all salesmen then or thereafter employed, such blanket bond to be subject to all of the terms, provisions and actions herein provided, and in such form as the Commission shall, from time to time, designate. Any recovery on such blanket bond shall be sufficient cause for cancelling or revoking the registration of any salesmen upon whose conduct the recovery is based. Upon any recovery on such blanket bond, the Commission shall have the right to require such person, and/or issuer, to execute a new and/or additional blanket bond as herein provided, in the amount of such recovery, so that the blanket bond or bonds shall be in the amount of five thousand dollars (\$5,000.00) over and above any recoveries. Subject to the approval of the Commission, any person and/or issuer, may, in lieu of a surety or sureties on such blanket bond, deposit, as directed by the Commission, collateral of the value of five thousand dollars (\$5,000.00), the value of such collateral to be maintained at not less than five thousand dollars (\$5,000.00) over and above any recoveries.

Section 2—Be it Further Enacted by the Legislature of Alabama, that if the Supreme Court of the State shall hold any clause, or provision of this act unconstitutional, or otherwise invalid or ineffective, such holding by the Supreme Court shall not effect any other clause or provision of this Act, and all other clauses and provisions shall remain in full force and effect.

Section 3—Be It Further Enacted by the Legislature of Alabama, that all laws and parts of laws in conflict with the provisions of this Act are hereby repealed, and that the provisions of this Act shall become effective upon approval by the Governor.

Approved September 9, 1935.

No. 392)

(H. 581—Connor

### AN ACT

To repeal an act entitled "An act to authorize the trustee in and for the sixteenth Section in Township 17 South, Range 5 West of Huntsville Meridian in Jefferson County, Alabama, to sell said Sixteenth Section and to accept in payment therefor other or different land of equal monetary value, in said Township: provided, first, the sale negotiated by said trustee is confirmed by the Circuit Court of Jefferson County, Alabama, in Equity, after said court has ascertained the substantial equality of the respective monetary values of each tract; and provided

further, that the existing lessee of said Sixteenth Section consent in writing to surrender all their rights, title and interests as lessees or otherwise in and to said Sixteenth Section, or consents to take in substitution for their existing rights as lessees a lease to such other or different land, in said Township; and to substitute as the corpus of the trust estate under said Trustee, such other or different land as is acquired by said trustee in exchange for said Sixteenth Section." Approved August 12, 1927.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That certain act entitled "An act to authorize the trustee in and for the Sixteenth Section in Township 17 South Range 5 West of Huntsville Meridian in Jefferson County, Alabama, to sell said Sixteenth Section and to accept in payment therefor other or different land of equal monetary value, in said Township; provided, first, the sale negotiated by said trustee is confirmed by the Circuit Court of Jefferson County, Alabama, in Equity, after said court has ascertained the substantial equality of the respective monetary values of each tract; and provided further, that the existing lessee of said Sixteenth Section consent in writing to surrender all their right, title and interests as lessees or otherwise in and to said Sixteenth Section, or consents to take in substitution for their existing rights as lessees a lease to such other or different land, in said Township; and to substitute as the corpus of the trust estate under said trustee, such other or different land as is acquired by said trustee in exchange for said Sixteenth Section," approved August 12, 1927, be, and the same is hereby repealed.

Section 2. That this act shall take effect immediately upon its passage and approval by the governor.

Approved September 9, 1935.

No. 393)

(H. 625—Chichester

AN ACT

To make an appropriation for the support, maintenance and improvement of the Alabama Vocational School for Girls.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That the sum of Six Thousand Three Hundred Twenty (\$6,320.00) Dollars is hereby appropriated annually out of any moneys in the State Treasury, not otherwise appropriated, for the support, maintenance and improvement of the Alabama Vocational School for Girls located at Birmingham, Alabama, the said appropriation be payable annually beginning with the next current fiscal year.

Section 2. Be it further enacted that the State Auditor, State Comptroller and the State Treasurer is hereby authorized to draw, accept and pay the necessary warrants and vouchers to pay this appropriation in quarterly installments to the said Alabama Vocational School for Girls.

Approved September 7, 1935.

No. 394)

(H. 629—McDermott.

### AN ACT

To Amend An Act Entitled "An Act To Vest The Circuit Court, Or Court Of Like Jurisdiction, With Power To Authorize A Married Person Whose Spouse Is Insane To Dispose Of Any Or All Interests Owned In Real Estate As If Single," approved April 19, 1933, so as to read as follows: "An Act To Vest The Circuit Court, Or Court Of Like Jurisdiction, With Power To Authorize A Married Person Whose Spouse Is Insane, To Sell, Convey, Mortgage, Or Otherwise Dispose Of Any Or All Interests Owned In Real Estate, Not Including A Homestead, As If Single."

*Be it enacted by the Legislature of Alabama:*

Section 1. The Circuit Court, or court of like equitable jurisdiction, by a proceeding in equity, may authorize a married person whose spouse is insane, to sell, convey, mortgage or otherwise dispose of any interest owned in real estate, as if such married person were single.

Section 2. Whenever any such married person whose spouse is insane desires authority to sell, convey, mortgage or otherwise dispose of real estate, as if single, such married person shall file a petition in equity in the Circuit Court or other court of like equitable jurisdiction setting forth the fact that his or her spouse is insane, and that he or she desires to be authorized to sell, convey, mortgage, or otherwise dispose of real estate, not including a homestead, as if single, that said petition is not for the purpose of taking advantage of, or defrauding the insane spouse. Upon the filing of such petition, the same shall be presented to the Judge of the Court, who shall enter an order fixing the day for hearing, providing what notice shall be given the insane spouse, the manner of giving such notice, and appointing a guardian ad litem to represent the interest of said insane spouse.

Section 3. If upon the hearing of the evidence the court is of the opinion that the authority sought to sell, convey, mortgage or otherwise dispose of real estate as if single, should be granted, the court shall enter a decree granting such authority for such a period of time as the court deems proper.

Section 4. If the court enters the decree granting such petition, the petitioner shall file a certified copy of such decree in

the Probate office of the county in which is situated the real estate he desires to sell, convey, mortgage, or otherwise dispose of.

Section 5. Upon the entering of the decree authorizing a married person whose spouse is insane, to sell, convey, mortgage, or otherwise dispose of real estate as if single, such married person shall have the right to sell, convey, mortgage, or otherwise dispose of any or all interests in real estate as if single, for a period specified in said decree.

Section 6. The mode prescribed in this Act shall not be considered exclusive and shall not repeal any existing law upon the subject of this act, or be construed as limiting authority which the courts now have with reference to the same.

Approved September 9, 1935.

No. 395)

(H. 651—Staples.

#### AN ACT

To authorize any bank, trust company, bank and trust company, banking association, stock savings bank or mutual savings bank now or hereafter organized under the laws of this State or the conservator, receiver or liquidator thereof, to enter into such contracts, incur such obligations and generally to do such acts as may be appropriate or necessary to take advantage of any and all memberships, loans, subscriptions, contracts, grants, rights or privileges which may, at any time, be available or enure to said banking institutions or their depositors or stockholders, or their conservators, liquidators, or receivers, by virtue of any Act or Resolution of the Congress of the United States to aid, regulate or safeguard banking institutions and depositors, including the Act creating the Federal Deposit Insurance Corporation; to empower any such banking institution to subscribe to and acquire any stock or debentures or bonds or other types of securities of said Corporation and to comply with its regulations and requirements; to authorize the appointment of the Federal Deposit Insurance Corporation as receiver or liquidator of any such insured closed banking institution, and to authorize said Corporation to do any and all things appropriate in the sale or acquisition of the assets of such institutions and in the liquidation of same; to make loans to same and to its receivers and liquidators and the State Superintendent of Banks therefor; to provide for the subrogation of said Corporation to the rights against said closed institutions of all insured depositors, whose deposits have been paid, or for the payment of which funds have been made available; to recognize the right of said Corporation to make examinations of and to require reports from such institution, and the State Superintendent of Banks to accept same in lieu of any examination or report authorized to be made to said official; to provide for disclosure by said State Superintendent of Banks to said Corporation and to the Federal Reserve Board and the Reconstruction Finance Corporation, or either or any of them, of the condition and affairs of such insured institution and access to information regarding same; to provide for the vesting of title in said Corporation of assets of such closed institutions. To exempt banking institutions from furnishing security for any deposits to the extent such deposits are insured under Section 12 B of the Federal Reserve Act, as amended.

*Be it enacted by the Legislature of Alabama:*

Section 1. The term "banking institution," as used in this Act shall be construed to mean any bank, trust company, bank and trust company, stock savings bank or mutual savings bank, which is now or may hereafter be organized under the laws of this State.

Section 2. Any banking institution now or hereafter organized under the laws of this State is hereby empowered, on the authority of its board of directors, or a majority thereof, to enter into such contracts, incur such obligations and generally to do and perform any and all such acts and things whatsoever as may be necessary or appropriate in order to take advantage of any and all memberships, loans, subscriptions, contracts, grants, rights or privileges, which may at any time be available or enure to banking institutions or to their depositors, creditors, stockholders, conservators, receivers or liquidators, by virtue of those provisions of Section 8. of the Federal Banking Act of 1933 (Sec. 12 B of the Federal Reserve Act, as amended,) which established the Federal Deposit Insurance Corporation and provide for the insurance of deposits, or of any other provisions of that or of any other Act or Resolution of Congress to aid, regulate or safeguard banking institutions and their depositors, including any amendments of the same or any substitutions therefor; also, to subscribe for and acquire any stock, debentures, bonds or other types of securities of the Federal Deposit Insurance Corporation and to comply with the lawful regulations and requirements from time to time issued or made by such Corporation.

Section 3. The Federal Deposit Insurance Corporation created by Section eight of the Federal Banking Act of 1933 (Section 12 B of the Federal Reserve Act, as amended) is hereby authorized and empowered to be and act without bond as receiver or liquidator of any banking institution, the deposits in which are to any extent insured by said Corporation, and which shall have been closed on account of inability to meet the demands of its depositors. To appropriate State authority, having the right to appoint a receiver or liquidator of a banking institution, may in the event of such closing tender to said Corporation the appointment as receiver or liquidator of such banking institution, and if the Corporation accepts said appointment, the Corporation shall have and possess all the powers and privileges provided by the laws of this State with respect to a receiver or liquidator respectively of a banking institution, its depositors and other creditors, and be subject to all the duties of such receiver or liquidator, except in so far as such powers, privileges or duties are in conflict with the provisions of subsection (1) of Section 12 B of the



Federal Reserve Act, as amended, or of any amendments of or substitutions therefor, (Section 8 of said Banking Act of 1933).

Section 4. Whenever any banking institution shall have been closed as aforesaid, and said Federal Deposit Insurance Corporation shall pay or make available for payment the insured deposit liabilities of such closed institution, the Corporation, whether or not it shall have become receiver or liquidator of such closed banking institution, as herein provided, shall be subrogated to all rights against such closed banking institution of the owners of such deposits in the same manner and to the same extent as subrogation of the Corporation is now or may be hereafter provided for by Federal Law in the case of the closing of a national bank: Provided, that the rights of depositors and other creditors of such closed institution shall be determined in accordance with the applicable provisions of the laws of this State.

Section 5. The State Superintendent of Banks is authorized to accept in his discretion in lieu of any examination authorized by the laws of this State to be conducted by his department of a banking institution the examination that may have been made of same within a reasonable period by the Federal Deposit Insurance Corporation provided a copy of said examination is furnished to said State Superintendent of Banks. Said State Superintendent of Banks may, also, in his discretion accept any report relative to the condition of a banking institution which may have been obtained by said Corporation within a reasonable period, in lieu of a report authorized by the laws of this State to be required of such institution by his department, provided a copy of such report is furnished to said State Superintendent of Banks. Said State Superintendent of Banks may furnish to said Corporation, or to the official or examiner thereof, and to the Federal Reserve Board and to the Reconstruction Finance Corporation, or either or any of them, a copy or copies of any or all examinations made of any such banking institutions and of any or all reports made by same, and shall give access to and disclose to said Corporations or any official or examiner thereof any and all information possessed by the office of said State Superintendent of Banks with reference to the conditions or affairs of any such insured institution. Nothing in this section shall be construed to limit the duty of any banking institution in this State, deposits in which are to any extent insured under the provisions of Section 8 of the Banking Act of 1933 (Section 12 B of the Federal Reserve Act, as amended) or of any amendment of or substitution for the same, to comply with the provisions of said Act, its amendments or substitutions, or the requirements of said Corporation relative to examinations and reports, nor to limit the powers of the State Superintendent of Banks with reference to examinations and reports under existing law.

Section 6. With respect to any banking institution, which is now or may hereafter be closed on account of inability to meet the demands of its depositors or by action of the State Superintendent of Banks or of a court or by action of its directors or in the event of its insolvency or suspension, the State Superintendent of Banks and or the receiver or liquidator of such institution with the permission of said State Superintendent of Banks may borrow from said Corporation and furnish any part or all of the assets of said institution to said Corporation as security for a loan from same, provided, that where said Corporation is acting as such receiver or liquidator, the order of a court of record of competent jurisdiction shall be first obtained approving such loan. Said State Superintendent of Banks upon the order of a court of record of competent jurisdiction, and upon a like order and with the permission of said State Superintendent of Banks the receiver or liquidator of any such institution may sell to said Corporation any part or all of the assets of such institution. The provisions of this Section shall not be construed to limit the power of any banking institution, the State Superintendent of Banks, or receivers or liquidators to pledge or sell assets in accordance with any existing law.

Section 7. Upon the acceptance of the appointment of receiver or liquidator aforesaid by said Corporation, the possession of and title to all the assets, business and property of such banking institution of every kind and nature shall pass to and vest in said Corporation and without the execution of any instruments of conveyance, assignment, transfer or endorsement.

Section 8. Notwithstanding any provision of law of this State or of any political subdivision thereof requiring security for deposits in the form of collateral, surety bond or in any other form, security for such deposits shall not be required to the extent said deposits are insured under the provisions of Section 12 B of the Federal Reserve Act, as amended, or any amendments thereto.

Section 9. The validity of any provision or part of this Act shall not be dependent upon any other provision or part thereof. If any provision or part thereof should for any reason be held unconstitutional or invalid such decision shall not affect the validity of any of the remaining provisions or parts of this Act.

Section 10. All laws in conflict herewith are hereby repealed.

Approved September 9, 1935.

No. 397)

(H. 827—Robertson (Cullman)

## AN ACT

For the further promotion of the vocational rehabilitation, physical restoration, care and treatment of crippled individuals, and for the promotion of the vocational rehabilitation of persons physically disabled in industry or otherwise and for their return to civil employment, and to provide for its administration.

*Be it enacted by the Legislature of Alabama:*

Section 1. That, for the purpose of enabling the State of Alabama to comply with the provisions of the National Social Security Act in so far as it relates to extending and strengthening its program of vocational rehabilitation of physically disabled persons, to provide physical restoration when necessary, and to continue to carry out the provisions and purposes of the Federal Vocational Rehabilitation Act entitled "An Act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise, and their return to civil employment," approved June 2, 1920, as amended, any and all funds appropriated may be used for the purposes set forth in this section and in the amended act.

Section 2. That, in furthering its plan of vocational rehabilitation and physical restoration now effective in the State, this Act shall be administered and any and all state and federal appropriations for carrying into effect its provisions shall be expended under the supervision of the State Board of Education.

Section 3. That all state and federal funds made available for carrying out the provisions of the Act shall be paid by the State Treasurer on warrants drawn therefor by the State Comptroller, on requisition of the State Superintendent of Education. All laws and parts of laws in conflict with this Act be and the same are hereby repealed.

Approved September 9, 1935.

No. 398)

(H. 829—Robertson (Cullman)

## AN ACT

For providing medical, surgical, corrective and other services, care and treatment, and facilities for diagnosis, hospitalization and after-care for children who are crippled or who are suffering from conditions which lead to a crippling, and to provide for its administration.

*Be it enacted by the Legislature of Alabama:*

Section 1. That, for the purpose of enabling the State Board of Education of Alabama to comply with the provisions of the National Social Security Act and to continue to extend and improve

as far as practicable the services now maintained by the State Board of Education for locating crippled children and for providing medical, surgical, corrective, and other services, care and treatment, and facilities for diagnosis, hospitalization, and after-care for children who are crippled or who are suffering from conditions which lead to crippling any and all funds appropriated for physical restoration of crippled children for the above purposes may be used for the purposes set forth in this section.

Section 2. That this Act together with funds made available through that section or those sections of the Federal Social Security Act which relates to crippled children, together with any and all available State and Federal appropriations, shall be administered by the State Board of Education, through the Rehabilitation Service of the Division of Vocational Educational, and shall be used in the further development of the State's program of physical restoration of crippled children. That the State Board of Education is hereby authorized to accept donations, gifts and bequests and to expend same on approval of the State Superintendent of Education, executive officer of the Board, for purposes approved under regulations of the State Board of Education.

Section 3. That all funds made available for carrying out the provisions of this Act shall be paid by the State Treasurer on warrants drawn therefor by the State Comptroller, on requisition of the State Superintendent of Education. All laws and parts of laws in conflict with this Act be and the same are hereby repealed.

Approved September 9, 1935.

No. 401)

(H. 894—Harrison.

### AN ACT

To provide for State planning of all public works and uses of land which are to be constructed or acquired with State funds, or located, constructed, or authorized by the State; all local improvements which, under the statutes, are required to be submitted to State authorities; also all projects of state magnitude, even though the construction and financing are to be done by local authorities exclusively; to provide for a State Planning Commission and to prescribe its composition, duties, powers and responsibilities; to authorize the legislature to provide the necessary appropriations to meet the expenses of carrying on the work of the commission under the provision of this Act.

*Be it Enacted by the Legislature of Alabama:*

Section I. That there is hereby created and established a State Planning Commission to consist of the Governor, the State Superintendent of Education, a member of the State Agricultural Extension Service Staff, the State Forester, the State Geologist, and four

appointive members, all bona fide residents and qualified voters of the State, and who shall be appointed by the Governor and confirmed by the Senate. Of the appointive members, two shall be designated to serve until the meeting of the legislature in 1939, and the other two shall be designated to serve until the meeting of the legislature in 1943. Their successors shall serve for terms of eight years and until their successors are appointed and qualified. The members of the Commission shall serve as such without compensation, but each shall be paid the actual expenses incurred in the performance of duties as a member of the Commission, when approved by the chairman. The commission shall be known as "State Planning Commission" of Alabama, and the members shall be state officers. Before entering upon the discharge of their duties, they shall take the oath of office prescribed for other state officers. The commission shall have an appropriate seal with such words and emblem as the commission may prescribe. Vacancies in the appointive membership of the commission shall be filled by appointment of the governor for the unexpired term. Five members of the commission shall constitute a quorum for the transaction of business. Notice of all meetings of the commission shall be given by the Secretary in such manner and under such rules and regulations as may be prescribed by the commission.

Section II. That the Commission at its first meeting after appointment shall elect from among its members a Chairman and a Vice-Chairman who shall serve for four years and until their successors are elected. The commission shall appoint a Director who shall be qualified by training and experience for the duties required of him. His term of office and his salary shall be fixed by the Commission. Upon nomination of the Director, the commission may appoint such other employees as it may deem necessary for its work, fix their rates of pay and promote, demote and remove them at will. The commission may also contract with planners and other consultants for such services as it may require. The Director shall serve as secretary of the commission and shall be custodian of the books, records and papers of the Commission, which he shall keep at the office of the Commission. Upon request of the Commission, the governor may, from time to time, for the purpose of special surveys under the direction of the Commission, assign or detail to the Commission members of the staffs or personnel of any State Administrative Department, bureau, institution or agency, or may direct any such department, bureau, institution or agency to make for the Commission special surveys or studies requested by the Commission. The Commission shall be provided with necessary office space and necessary equipment in the State Capitol or such other places as the needs of the Commission may require.

Section III. That the Legislature shall make the necessary appropriations to meet the expenses of carrying on the work of the commission under the provisions of this Act. The expenditures of the Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the Legislature. The Commission may adopt rules and regulations for the transactions of its business and shall keep a record of its resolutions, transactions, findings and determinations.

Section IV. That it shall be the function and duty of the State Planning Commission to make and adopt an official master plan for the physical development of the State. Such master plan, with the accompanying maps, plates, charts, and descriptive matter, shall show the commission's recommendations for the development of the State, and may include among other things, the general location, character, and extent of highways, bridges, waterways, waterfront, developments, flood prevention works, parks, reservations, forests, wild life refuges, aviation fields, drainage and sanitary systems, works for the prevention of stream pollution, railroad and motor vehicle routes, power transmission facilities, public buildings, and other public ways, grounds, spaces, utilities, facilities, structures, buildings and works which, by reason of their function, size, extent, location, legal status or other reasons are of State-wide, as distinguished from mere local concern, or the location, construction or authorization of which fall, according to law within the province or jurisdiction of State bodies or State officials or which for any other reasons are appropriate subjects of or fall appropriately within the scope of a State, as distinguished from a mere local program or plan; also the general location and extent of forests, agricultural areas and open development areas for the purpose of conservation, food and water supply, sanitary and drainage facilities or the protection of urban and rural development; also a land utilization program, including the general classification and allocation of the land within the State amongst agricultural, forestry, recreational, soil conservation, water conservation, industrial, urbanization and other uses and purposes. The State plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, efficient and economic development of the State, which will, in accordance with present and future needs and resources, best promote the health, safety, morals, order, convenience, prosperity and welfare of the people of the State of Alabama, as well as efficiency and economy in the process of development, including, amongst other things, such distribution of population and of the uses of the land within the State for urbanization, trade, industry, habitation, recreation, agriculture, forestry and other uses as will tend to create conditions favorable to health, safety, prosperity, transportation, and civic recreational, educational and cultural opportunities, tend to reduce the wastes of physical, financial, or

human resources which result from either excessive congestion or excessive scattering of population and tend toward an efficient and economic conservation, production and distribution of food and water and of sanitary and other facilities. The Commission may adopt the State master plan as a whole or, as the work of making the plan progresses, may from time to time adopt a part or parts thereof, any such part or parts to cover one or more of the functional subject-matter which may be included in the plan. The Commission may from time to time amend, extend or add to the plan or carry any part of the plan into greater detail. The adoption of the plan or any part, amendment, extension or addition shall be by resolution of the Commission carried by the affirmative votes of not less than a majority of the membership of the Commission. The resolution shall refer expressly to the maps, charts, and descriptive matter intended by the Commission to form the whole or part of the plan, and the action taken shall be recorded on the plan, maps and descriptive matter by the identifying signature of the Director and the Chairman of the Commission.

Section V. That the Commission shall have power to promote public interest in and understanding of the State Plan and the problems of the State planning and to that end may publish and distribute copies of the plan or any report and may employ such other means of publicity and education as it may determine. It may confer and cooperate with the executive, legislative or planning authorities of neighboring states and of the counties and municipalities of such states, for the purpose of bringing about a coordination between the development of such neighboring States, counties or municipalities and the development of the State of Alabama. The Commission shall advise and cooperate with municipal, county, regional and other local planning Commissions within the State for the purpose of promoting coordination between the State and local plans and development. The Commission shall, upon the request of any appropriate municipal, county or other local board or official, transmit information possessed by it which bears upon such coordination. The Commission may, upon the request of the Board of County Commissioners of any county, the council of any municipality or the chief legislative body of any other political subdivision, make a study of and report upon any planning problem of such county, municipality or subdivision submitted to it, and the Commission may agree with any such Board, Council or body as to the amount, if any, to be paid to the Commission for any such service. The Commission may, upon request or at its own initiative, furnish advice or reports to any State officer or department on any problem falling within the field of state planning, and may advise the Governor and/or the Legislature on programs for public improvement and the financing thereof. The Commission may prepare and submit to the Gov-

error and/or the Legislature drafts of legislation for the carrying out of the master plan or of any part thereof, including zoning or land-use regulations, the making of official maps and the preservation of the integrity thereof, and regulations for the conservation of the natural resources of the State. All public officials shall, upon request, furnish to the Commission, within a reasonable time, such available information as it may require for its work. The commission, its members, officers, and employees, in the performance of their functions may enter upon any land and make examinations and surveys and place and maintain necessary monuments and marks thereon. In general, the Commission shall have such powers as may be appropriate to enable it to fulfill its functions and duties, to promote State planning and to carry out the purposes of this Act. The Commission shall cooperate with other planning Commissions and authorities, including national and interstate planning boards, including the Tennessee Valley Authority and before making its report shall consult such national or interstate agency.

Section VI. That from and after the adoption by the State Planning Commission of the State master plan or of any part thereof and the certification by the Commission to the Governor of a copy of the plan or such part thereof, then and thenceforth no State public highway, park, forest, reservation or other state way or ground or no state public building or structure or property shall be constructed or acquired with state funds or located, constructed, or authorized by any State board, official or department unless the proposed location and extent thereof shall have been submitted to the State Planning Commission and the report and advice of the Commission thereon shall have been received: provided, however, that this requirement shall be deemed to be waived if the Commission fail to furnish in writing, its advice and report upon the proposal within forty-five (45) days after the submission thereof to it. In case such way, ground, building, structure or property be given a location or extent which does not accord with the report and advice of the Planning Commission, the State Board or Officials having charge of location, authorization, construction or acquisition of the same shall file in its or his office, a statement of its or his reasons for the departure from such report and advice, and such statement shall be open to public inspection. This Section shall not apply to ways, grounds, buildings, or structures or properties which are under construction at the time of the taking effect of this Act or whose construction or acquisition shall have been fully authorized and the location and extent determined previous to the taking effect of this Act.

Section VII. That all laws and parts of laws in conflict with this Act are hereby repealed.



Section VIII. That this Act shall become effective upon its approval by the Governor.

Approved September 9, 1935.

No. 402)

(H. 936—Carter.

### AN ACT

To Amend Schedule 67 of Article 13 Chapter 1 Section 348 of House Bill 324 of an Act entitled "An Act to provide for the general revenue of the State of Alabama," approved July 10th, 1935.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That Schedule 67 of Article 13 Chapter 1 Section 348 of House Bill 324 of an Act entitled "An Act to provide for the general revenue of the State of Alabama," approved July 10th, 1935, be and the same is hereby amended so as to read as follows: Schedule 67: Each person operating for profit a gasoline filling station or pump in cities or towns, or within three miles thereof, shall pay the following privilege tax: in cities of one hundred thousand inhabitants and over, where only one pump or filler is used, Forty Dollars (\$40.00), and for each additional pump Thirty Dollars (\$30.00); in cities or towns of forty thousand inhabitants and less than one hundred thousand inhabitants, where only one pump or filler is used, Thirty Dollars (\$30.00), and for each additional pump Twenty Dollars (\$20.00); in cities or towns of twelve thousand inhabitants and less than forty thousand Twenty-Five Dollars (\$25.00), where only one pump or filler is used and for each additional pump or filler, Fifteen Dollars (\$15.00); in cities or towns of five thousand inhabitants and less than twelve thousand, Twenty Dollars (\$20.00), where only one pump or filler is used and for each additional pump Ten Dollars (\$10.00); in incorporated towns of one thousand inhabitants and less than five thousand, where only one pump or filler is used, Ten Dollars (\$10.00); and for each additional pump or filler, Seven and One-Half Dollars (\$7.50); in incorporated towns of less than one thousand inhabitants Five Dollars (\$5.00); and for each additional filler or pump, Three Dollars (\$3.00); In all other places whether incorporated or not Two and One-Half Dollars (\$2.50), and for each additional pump or filler Two and One-Half Dollars (\$2.50).

Approved September 9, 1935.

No. 403)

(H. 937—Carter.

## AN ACT

To amend Schedule 155.4 of Section 348 of Article 13 Chapter 3 of an Act entitled "An Act to provide for the general revenue of the State of Alabama," approved July 10th, 1935.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That Schedule 155.4 of Section 348 of Article 13 Chapter 3 of an Act entitled "An Act to provide for the general revenue of the State of Alabama" be and the same is hereby amended to read as follows: Schedule 155.4. Every person, firm, corporation, association or co-partnership opening, establishing, operating or maintaining one or more stores or mercantile establishments, within this State, under the same general management, supervision or ownership, shall pay the license fees hereinafter prescribed for the privilege of opening, establishing, operating or maintaining such stores or mercantile establishments. The license fee herein prescribed shall be paid annually, and shall be in addition to the filing fee prescribed in sub-section 155.1 and 155.3 of this Schedule and shall be in addition to all other license or privilege taxes levied by this Act or hereafter levied. The license fees as herein prescribed shall be as follows: (a) Upon one store, the annual license fee shall be one dollar (\$1.00) for each store. (b) Upon two stores or more but not to exceed five stores, the annual license fee shall be Fifteen Dollars (\$15.00) for each such additional store. (c) Upon each store in excess of five but not to exceed ten, the annual license fee shall be Twenty Two Dollars and Fifty Cents (\$22.50) for each additional store. (d) Upon each store in excess of ten but not to exceed twenty the annual license fee shall be Thirty Seven Dollars and Fifty Cents (\$37.50) for each such additional store. (e) Upon each store in excess of twenty the annual license fee shall be One Hundred Twelve Dollars and Fifty Cents (\$112.50) for each such additional store.

Approved September 9, 1935.

No. 404)

(H. 942—Dominick

## AN ACT

To Provide For And Authorize The Closing Of The County Offices In Court Houses At Twelve O'Clock (Noon), One Day During Each Week, In Counties Having A Population Of Not Less Than Sixty Thousand (60,000), Nor More Than Sixty Five Thousand (65,000), According To The Last Federal Census; And To Authorize The Boards Of Revenue, Or Like Governing Bodies, Of Such Counties To Designate And Determine The Day During Each Week When Such Offices May Be Closed.

*Be it enacted by the Legislature of Alabama:*

Section 1. That in all counties now having a population of not less than Sixty Thousand (60,000) nor more than Sixty Five Thousand (65,000), according to the last Federal census, the County Offices in the Court Houses may be closed at Twelve O'clock (noon) one day during each week, and the Boards of Revenue, or like governing bodies, of such Counties are hereby authorized to designate and determine the day during each week when such offices may be closed as provided for herein.

Section 2. This Act shall take effect immediately upon its approval by the Governor.

Approved September 9, 1935.

No. 405)

(H. 950—Dominick

## AN ACT

To amend an Act entitled " 'An Act to amend an Act entitled "An Act to amend Section 2377 of the Code of Alabama of 1923," approved July 22, 1931," ' approved March 15, 1933.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the Act to amend an act to amend Section 2377 of the Code of Alabama of 1923, approved July 22, 1931, (Acts 1931, page 605,) approved March 15, 1933, (Acts 1933, Page 55), be and the same is hereby amended so as to read as follows: Section 2377. COMPENSATION OF COMMISSIONERS, WHEN AND HOW PAID: "The president of the board of commissioners of every city organized under the terms of this article, or organized under a special act and operating under the terms of this article, which shall have a population of 15,000 and not more than 35,000 by the last federal or municipal census, shall receive a salary of twenty-two hundred and fifty dollars per annum, and each commissioner of such city shall receive a salary of eighteen hundred dollars per annum; and the president of the board of commissioners of every such city, so organized and operating which shall have a population of eight thousand and not more than fifteen thousand, by the last federal or municipal census, shall receive a salary of fifteen hundred dollars per annum, and every commissioner of such city shall receive a salary of twelve hundred dollars per annum. The salary of the commissioners of such cities so organized and operating, having a population of less than eight thousand, by the last federal or municipal census, shall be fixed by ordinance adopted by the commissioners, and shall not be less than one hundred dollars per annum nor more than nine hundred dol-

lars per annum for each commissioner. All salaries of commissioners shall be paid monthly and at the same rate for every fraction of a year for which they serve.

Section 2. This act shall not decrease the compensation of any officer now serving under the terms of this article and who was elected or chosen before passage of this act.

Section 3. All laws and parts of laws in conflict with this Act are repealed, except where cities coming within the classes above set out are governed by special enactment or charters. Provided this act shall not apply to the city of Gadsden, Etowah County, Alabama, and the City of Tuscaloosa, Tuscaloosa County, Alabama.

Section 4. This Act shall be effective immediately upon its passage and approval.

Approved September 9, 1935.

No. 409)

(H. 973—Calhoun

### AN ACT

To provide that all Cities in Alabama that now have, or may hereafter have a population of as much as 15,000 and less than 17,500, according to the last Federal Census, or any such census, which may hereafter be taken, shall be known and designated as "Class "D" Cities"; to provide and create a Commission Form of Municipal Government and to establish the same in all Class "D" Cities of Alabama as herein defined; to provide for a City Manager of said Cities, his authority, duties, liability and penalties, term of office and compensation; to abolish the offices of Mayor and aldermen or commissioners, as the case may be, and otherwise provide for the creation and maintenance of said Commission Form of Government and the City Manager form of Government; to provide for the selections and elections of a Chairman and two (2) associate Commissioners in lieu of Mayor and aldermen or commissioners, as the case may be; to prescribe limitations and qualifications for officers and employees and penalties for violation of the provisions of this Act; to provide for the adoption of the Commission Form of Government, with City Manager Government, under the provisions of this Act by an election, of the qualified electors of such City, the manner, method and provisions for the conduct of said elections; canvass of returns and proclamation by the Mayor or other governing authority of said City; To fix the duties, powers and compensation of the Board of Commissioners.

*Be it enacted by the Legislature of Alabama:*

Section 1. All Cities in the State of Alabama which now have a population of 15,000 and less than 17,500 population, according to the last Federal census, or which hereafter shall have such population according to any such census that may hereafter be taken shall be known as Class "D" Cities, and the provisions of this Act shall apply only to such Cities.

Section 2. Upon the passage and approval by the Governor of this Act, and ratification thereof by an election as hereinafter provided, the offices of Mayor and Aldermen and the offices of City Commissions in all Class "D" Cities, within the classification, as provided in Section 1 hereof, Be And The Same Are Hereby Abolished and there is created in lieu thereof, a Commission Form Of Government, which shall consist of a Chairman and two (2) Associate Commissioners, which said Chairman and two (2) Associate Commissioners shall be the Chairman and Associate Commissioners now holding office in all Class "D" Cities now organized under the Commission Form Of Government under the laws of Alabama, and in all other Class "D" Cities shall be appointed by the Governor, which said Chairman and two (2) Associate Commissioners now holding office under any Commission Form of Government, or appointed by the Governor, shall hold office until the first Tuesday in October, 1938. On the first Tuesday in September, 1938, and every three (3) years thereafter, and as herein provided, the Chairman and the two (2) Associate Commissioners shall be elected and the General Election laws of Alabama shall govern the conduct of such election except as otherwise provided herein. Vacancies in said offices before the expiration thereof shall be filled by the remaining Commissioners and shall hold office for such unexpired term.

Section 3. The territorial limits of such City shall remain the same as under its former organization, except that all divisions in to wards of such Municipality shall be abolished, and all Commissioners shall be elected at large.

Section 4. The Chairman and the Associate Commissioners provided for in this Act shall be known collectively as the "Board of Commissioners of the City of \_\_\_\_\_" (name of City to be inserted), and it shall have the powers hereinafter provided. The first Commissioners appointed under the provisions of the Act shall qualify for office in the manner prescribed by this Act and shall take office within ten (10) days after their appointment or as soon thereafter as they may have qualified; and as soon as they have qualified for office in any such City then such City shall at that time and thereby become organized under the Commission Form of Government provided for by this Act, and said Commissioners shall forthwith take office and enter upon their duties and assume the duties of such office.

Section 5. Such Board of Commissioners shall be municipal officers only, and shall have, possess and exercise the municipal powers, legislative, executive and judicial, now or hereafter conferred upon municipalities and governing bodies thereof. All laws governing such City, and not inconsistent with the provisions of this Act, shall apply to and govern said City after it shall become

organized under the Commission Form of Government provided by this Act. All laws, ordinances and resolutions lawfully passed and in force in any such City under its former organization not inconsistent with the provisions of this Act, shall remain in force until altered or repealed, according to the provisions of this Act. All employees of said City and all officials except those whose terms of office are abolished by this Act shall continue in office until otherwise provided by said Board of Commissioners.

Section 6. In such Class "D" Cities the management and control of the public Schools therein shall be vested in a Board of Education as provided by law.

Section 7. Every Class "D" City shall be governed and managed by the Board of Commissioners as herein provided, and each and every officer and employee of such City and such other officers and employees as are designated in this Act, shall be selected and employed by the said Board of Commissioners, under its direction, and all salaries and wages paid by said City except as otherwise provided by the terms of this Act, shall be fixed by the Board of Commissioners; Where not otherwise provided in this Act, the Commissioners shall prescribe and may at any time change the powers, duties and titles of all subordinate officers and employees of said City, all of whom except those herein otherwise specified, shall hold office and be removable at the pleasure of the Board of Commissioners.

Section 8. The Chairman of the Board shall have direct supervision over the Departments of Finance and Taxation, accounts and accounting, Budget and Appropriation and shall be Chairman of all meetings of the Board and shall have general supervision over all matters pertaining to the government of such City; (b) One Associate Member shall have supervision of the Departments of City Buildings and property, parks, public improvements, and public utilities; (c) One Associate member shall have supervision over the Department of public affairs, public safety, public health, Streets. The powers and duties pertaining to each of said Departments shall be fixed by the Board of Commissioners, and altered from time to time by them as they may deem best. Provided the Administration of each Department shall be under the supervision and control of the Board of Commissioners, as a whole, and such Board shall be responsible therefor. The Chairman of the Board of Commissioners shall have in addition to the other duties and powers given him by the provisions of this Article, be invested with all the powers, jurisdiction and functions now or heretofore possessed by the Mayor of such City, and shall be required to perform all his duties now or heretofore performed by the Mayor of such City.

Section 9. Said Board of Commissioners shall hold regular

public meetings on Tuesday of every week at some regular hour to be fixed by said Board from time to time, and publicly announced by it, and it may hold such adjourned, called and other meetings as may be necessary or convenient. The Chairman of the Board, when present, shall preside at all meetings of said Board, but shall have no veto power. A majority of the total number of members of said Board shall constitute a quorum for the transaction of any and every business to be done by said Board, and for the exercise of any and every power conferred upon it; and the affirmative vote of a majority of the total number of members of said Board shall be necessary and sufficient for the passage of any resolution by law or Ordinance, for the transaction of any business of any sort by the said Board, or the exercise of any powers conferred upon it by the terms of this Act or that may hereafter be conferred upon it, by Law. This provision shall not be construed however, so as to prevent the said Board from delegating or assigning to one or more of its members, or to such Boards, Commissions, officers or employees as may be created or selected by it, the performance of such executive or judicial duties and powers that are by this Act vested in said Board of Commissioners, as may be necessary or convenient, provided same is done by resolution, by-law or Ordinance duly enacted according to the terms of this Act, where not otherwise provided. All meetings of the Board shall be open to the public. No resolutions, by-law or ordinance granting any franchise, appropriating any money for any purpose, providing for any public improvements, enacting any regulations concerning the public comfort, public safety or public health or of any other general or permanent nature shall be enacted, except at a regular or adjourned public meeting of said Board, provided that a meeting of the Board of Commissioners may be called at any time to consider and act upon an emergency that involves the public safety, or public health, when not otherwise herein provided. Every motion, resolution or ordinance introduced at any and every such meeting shall be reduced to writing and read before any vote thereon shall be taken and the yeas and nays thereon shall be recorded, a record of the proceedings of every such meeting shall be kept in a well bound book and every resolution and ordinance passed by the Board of Commissioners must be recorded in such book and a record of the proceedings of the meeting be signed by at least two of the Commissioners before the action taken shall be effective, such record shall be kept available for inspection by all citizens of such City, at all reasonable times.

Section 10. No ordinance granting any franchise, lease or right to use the public highways, or public property of any City organized under the provisions of this Act, shall take effect and be in force until thirty days after the final enactment of same by

the Board of Commissioners and publication of said ordinance as provided by law, which publication shall be made at the expense of the persons, firm or Corporation applying for said grant.

Section 11. In all elections each office of Commissioner to be filled shall be designated, the associate commissioners being designated as associate commissioner numbers one and two respectively, and this shall be shown on the ballot prepared for such election. In filing statement of candidacy each candidate shall designate for which place he desires election. At every election each voter shall vote for only one candidate for each office and the candidate receiving the highest number of votes for such office shall be elected, provided he receives a majority of all votes cast for such office. In case no one of such candidates shall receive a majority of such votes cast for the office for which he is a candidate another election shall be held on the same day of the following week for said office at which the two candidates receiving the highest number of votes at the initial election for said office shall be voted for. The candidate receiving the highest number of votes at such final election shall be declared elected. Candidates declared elected shall qualify and take oath of office on the first Monday in October next following said election.

Section 12. The salary of the Chairman of such Commission shall be Seven Hundred Fifty and No/100 Dollars (\$750.00), per annum and the salaries of the two (2) associate Commissioners shall be Six Hundred Dollars (\$600.00), each, per annum, divided into twelve (12) equal monthly payments, to be paid out of the general fund of such City, on the first day of each month. The payment of all funds out of the Treasury shall be by warrants signed by City Clerk and counter-signed by the Chairman of such Board, provided that during the absence of the Chairman of such Board of Commissioners from the Corporate limits of such City and necessity therefor arising, that such warrant may be countersigned by one of the associate Commissioners. The Board shall elect a Recorder or Municipal Judge, who shall try all cases arising from the violation of City Ordinances or laws over which such Court may have jurisdiction.

Section 13. Each Commissioner shall before entering upon the duties of his office, give a good and sufficient bond, which shall be executed by a Bonding Company authorized to do business in Alabama, payable to and for the use and benefit of such City, in the sum of Five Thousand Dollars (\$5,000.00), conditioned upon the faithful discharge of his duties, and that he will save such City harmless from all loss caused by his neglect of duty, misfeasances in office or for the willful expenditure of any moneys of such City, in violation of law, and said bond before being accepted, shall be approved by the Judge of Probate in and for the



County wherein such City is situated. The premium on such bond shall be paid out of the City Treasury. No member of the Commission nor any person holding an office of profit under them, shall hold any office of profit or trust under the laws of any State of the United States, or hold any County office.

Section 14. And in all of the Municipalities adopting the provisions of this Act in accordance with the manner and method hereinafter provided, there is hereby created the office of City Manager, who shall hold office at the will and be removable at the pleasure of the Board of Commissioners or a majority thereof, which City Manager shall be charged with the duties and penalties as follows: The City Manager shall be the Administrative head of such Municipal Government. Such manager shall be chosen by the Board of City Commissioners without regard to political beliefs, solely upon the basis of the executive and administrative qualifications of such person. The choice shall not be limited to inhabitants of such City, or the State of Alabama. (a) The City Manager shall receive such compensation as may be prescribed by Ordinance of the Board of City Commissioners, but not to exceed Five Thousand Dollars (\$5,000.00), per annum and shall be payable in twelve (12) monthly payments by warrants drawn upon the City Treasury, signed by the Clerk of said City and duly counter-signed by the Chairman of the Board of Commissioners, or during his absence by one of the Associate Commissioners. (b) During the absence or disability of the City Manager the Commission shall designate some properly qualified person to perform the duties of the office of City Manager. (c) The City Manager must devote all his working time and attention to the affairs of the City and shall be responsible to the Commission for the efficient administration of all of the affairs of the City over which he has jurisdiction. (d) The City Manager shall have the power and it shall be his duty: (1) To see that all laws and Ordinances are enforced. (2) To appoint and employ all necessary employees of the City, provided that excepted from the power of this appointment are those officers and employees who by this Act are appointed or elected by the Board of Commissioners, or Departments not under the jurisdiction of the City Manager. (3) To remove employees employed by him without the consent of the Commission and without assigning any reason therefor, provided nothing herein shall operate or confer upon the City Manager supervision and control over the City Board of Education, Water & Light Department, Police Department, Fire Department. (4) To exercise supervision and control of all departments and all divisions created in this Act or that may hereafter be created by the Commission except as otherwise provided in this Act. (5) To attend all meetings of the Commission with a right to take part in the dis-

cussions but having no vote. The City Manager shall be entitled to notice of all special meetings. (6) To recommend to the Commission for adoption such measures as he may deem necessary or expedient. (7) To see that all terms and conditions imposed, in favor of the City or its inhabitants in any public utility franchise are faithfully kept and performed, and upon the knowledge of any violation thereof to call the same to the attention of the City Attorney, whose duty it shall be forthwith to take such steps as are necessary to protect and enforce the same. (8) To make and execute all lawful contracts on behalf of the City as to matters within his jurisdiction, except such as may be otherwise provided by law or by ordinance passed by the Commission provided that no contract purchase or obligation involving over Fifty Dollars (\$50.00) shall be voted and binding until after approval of the Commission. (9) To act as Budget Commissioner with such Committee as the Commission may appoint to prepare and submit to the Commission prior to the beginning of each fiscal year, showing as much detail as practicable for the amounts allotted to each department of the City Government, and the reasons for such estimated expenditures. (10) To keep the Commission at all times fully advised as to the financial condition and needs of the City. (11) To make a full written report to the Commission on the first of each month showing the operation and expenditures of each department of the City Government for the preceding month and a synopsis of such reports shall be published by the Clerk of the City. (12) To fix all salaries and compensations of City employees lawfully employed by him, subject however, to supervision, approval or disapproval of the Commission. (13) To perform such other duties as may be prescribed by this Act, or required by Ordinance or resolution of the Commission. (14) The City Manager shall be the purchasing Agent for the City by whom all the purchases of supplies for departments under his control, as well as those for the Fire and Police Departments, as hereinbefore provided, and all contracts for printing, shall be made as hereinbefore provided, and he shall approve all vouchers for same, provided all contracts or agreements made by him requiring the expenditure of money to the amount of Fifty Dollars (\$50.00), or more shall be approved by the Board of City Commissioners. In the capacity of purchasing Agent he shall conduct all sales of personal property which the Commission may authorize to be sold, and which have become unnecessary or unfit for the City's use; all purchases and sales shall conform to such regulations as the City Commissioners may from time to time prescribe, but in any case, if any amount in excess of Two Hundred Fifty Dollars (\$250.00), be involved, opportunity for competition shall be given after reasonable advertisement thereon. (15) The City Manager, before entering upon

the discharge of his duties, shall give bond in the penal sum of at least Ten Thousand Dollars (\$10,000.00), to be fixed by the Board of City Commissioners, and to be approved by the Chairman of the Board of Commissioners and Clerk (the premium of which shall be paid by the City) payable to such City and its successors in office, for the benefit of the City and for the use and benefit of the public, to secure and indemnify the City, and any of the public, by reason of his default, misfeasance, malfeasance, or nonfeasance, in the performance of his duties.

Section 15. No officer or employee elected or appointed by any such City shall be interested, directly or indirectly, in any contract for work or material, or the profits thereof, or service to be furnished or performed for the City; nor shall any officer or employee elected or appointed be interested, directly or indirectly, in any contract for work or materials or profits thereof, or for the services to be furnished or performed for any person, firm or corporation operating or interested in any public utility operating within the territorial limits of such City. Any persons violating any provision of this Section shall upon conviction, be guilty of malfeasance in office and shall be punished as provided by the Laws of the State of Alabama. Any elective officer shall be subject to all the pains and penalties and enjoy all of the privileges and immunities as provided by the Constitution and General laws of the State of Alabama applicable to such officials. The Commissioners shall be qualified electors residing within the Corporate limits of such City.

Section 16. At the end of such fiscal year the books and accounts of such City shall be audited by a reputable disinterested accountant and such report shall be certified to by the City Clerk and attested by the members of the Commission and published in pamphlet form, and printed copies furnished to the newspapers of City and to persons who apply therefor.

Section 17. The provisions of this Act shall not become effective and operative until the same shall have first been submitted to the qualified electors of any Class "D" City affected by same and the same shall have been duly ratified by a majority of such qualified electors participating in the elections, duly called and held, nor until ninety (90) days after such ratification by such electors in such elections. Such elections shall be called by the Chairman (or President) of the Board of Commissioners of any such Class "D" City now under Commission Form of Government, or by the Mayor of any such class "D" City now under aldermanic Government to be held on a date fixed by such officer not more than four (4) months after the passage of this Act and approval thereof by the Governor, such elections shall be conducted in all manner as now provided by the General Election Laws of Alabama.

Section 18. Except as otherwise expressly provided in this Act, all General and Local laws and parts of laws in conflict with this Act, be and the same are Hereby Repealed. This Act shall take effect immediately upon its passage and approval by the Governor.

Approved September 9, 1935.

No. 410)

(H. 974—Welch

### AN ACT

To Provide for the appointment of a Special Court Reporter for the Taking Down and Transcribing of Testimony taken ore tenus in Equity Cases in the Circuit Court in Judicial Circuits in the State of Alabama which do not Include more Counties than one, and when that County has a Population of 300,000 or more, according to the last or any future Federal Census; to Provide for his Tenure of Office; his Duties, and his Compensation; and to Further Provide for the Cost of his Services to be Taxed as a Part of the Costs of Court, and when Collected to be Paid by the Register to such Special Court Reporter.

*Be it Enacted by the Legislature of Alabama:*

Section 1. The judges of the Circuit Court in all judicial circuits in the State of Alabama which do not include more counties than one, and when that county has a population of 300,000 or more, according to the last or any future federal census, may appoint a Special Court Reporter, who must be a competent stenographer, whose duty shall be to take down and transcribe the testimony taken ore tenus in the trial of equity cases in said court (except in such cases as he is relieved from doing so by the judge trying the case) together with such other duties as are usually incident to the office of a court reporter; and where such court has or shall have five or more judges whose positions are numbered, the judge numbered first in said court shall have the authority to make such appointment.

Section 2. The term of office of such reporter when appointed shall be one year, but he may be reappointed, and he may be removed, with or without cause, at any time by the judge or judges who would be empowered by the foregoing section to appoint his successor, if he should die or resign.

Section 3. There shall be charged and taxed as a part of the court costs in each equity case in which the services of such reporter are allowed by the Court, or are availed of by either of the parties to the cause, a fee of five dollars for each half day, or fraction thereof, which he serves and when collected by the Register such fee shall be paid by him to said Special Court Reporter in payment for his performance of such services, as hereinafter provided.

Section 4. At the conclusion of a trial in which the said reporter is so used, he shall file with the Register in Chancery his short-hand notes of all the testimony taken ore tenus in the trial of the case, including an identification of all writings and other exhibits to the testimony, and all objections and exceptions to the testimony which are not waived by the parties; and the said short-hand notes shall be a part of the record in said cause.

Section 5. If an appeal shall be taken in such cause the Register shall notify the Reporter; and it shall be the duty of the Reporter under the direction of the Register, to transcribe his notes on the regular transcript paper required by the Supreme Court of Alabama for the transcripts on appeal, making the number of copies necessary for such appeal; and the Register shall incorporate them in the transcript.

Section 6. When any party to a suit, in which testimony has been taken by a court reporter appointed under this Act, shall demand of the Register a copy of the testimony of which the Reporter's notes have not been transcribed, an appeal not having been taken in the case, it shall be the duty of the Reporter who took them, on being notified by the Register, to transcribe such notes (but not necessarily on paper such as is required for transcripts on appeal) and to deliver to the Register the copy or copies so required by the party or parties.

Section 7. The cost of transcribing the Reporter's notes on transcript for appeal, when taken in a cause, shall be ten cents for each one hundred words of each original page, and five cents for each one hundred words of each copy thereof, in conformity with Section 6102 of the Code of Alabama of 1923; and such cost shall be taxed as a part of the cost of court; and when collected by the Register shall be paid by him to said Special Court Reporter in payment of his performance of such services. And the cost of transcribing any part of the testimony required of the Register under Section 6 of this Act shall be five cents for each copy of each one hundred words so transcribed, and shall be paid or secured to the Register before the transcribing or delivery thereof; and when collected by the Register shall be paid by him to said Special Court Reporter in payment for his performance of such services, as hereinafter provided.

Section 8. For performing the duties required by this Act, said Special Court Reporter shall receive, except as hereinafter provided in this Section, from the Register all fees and costs collected by said Register under authority of this Act said payments to be made by the Register on the first day of each calendar month, each payment to consist of all fees and costs collected by the Register and remaining undisbursed on the date of making payment; provided, however, that said Special Court Reporter shall be entitled to receive, as compensation for performing said duties, the mini-

sum of \$100.00 per month guaranteed and payable as follows: If on the first day of any calendar month the total sum said Special Court Reporter shall have received, from the date of his appointment under authority of this Act, shall amount in the aggregate to less than \$100.00 per month for such period of time, he shall be entitled to receive out of the general funds of the County, on warrant signed by the Register, a sum sufficient, in addition to the fees and costs received or to be received by him on said date from the Register, to make the total compensation received by him from the date of his appointment amount in the aggregate to \$100.00 per month. When any such payment shall have been made to said Special Court Reporter out of the general funds of the County, the Register shall, out of the fees and costs next collected by him under authority of this Act, pay into the County Treasury on the first day of each calendar month a sum sufficient to repay all funds so paid out of the County Treasury, as hereinbefore provided or such portion thereof as said fees and costs will pay, after he has first paid to said Special Court Reporter sufficient funds to enable said Special Court Reporter to have received in the aggregate the sum of \$100.00 per month to such date as hereinbefore provided.

Section 9. When a reporter, appointed under this Act, shall have resigned, or been removed or when for any reason he shall have ceased to be such reporter, if an appeal be taken in a cause in which he acted as reporter under this Act, or if a transcript of testimony he may have so taken, is required by any party to a cause, and demanded of the Register, it shall be the duty of such former reporter to furnish the Register such copy or copies of the transcript of the testimony as required of him by the Register, and he shall receive from the Register in payment of such services, the fees collected by the Register under authority of this Act, for such services, payment to be made by the Register, when such fees are collected by him.

Section 10. This Act shall become effective on the first day of the first calendar month after the date of its approval by the Governor.

Approved September 9, 1935.

No. 415)

(H. 1034—Poole

## AN ACT

To authorize and provide for the payment of the sum of Seventy-Seven Dollars (\$77.00) for the relief of Eddie McCrory of Greenville, Alabama, who was injured on the 15th day of November, 1934, while acting in his line of duty as a deputy sheriff of Butler County, Alabama.

WHEREAS, Eddie McCrory while in line of duty as a deputy sheriff of Butler County, Alabama on the 15th day of November, 1934 was injured by a pistol shot in the head while enforcing the criminal laws of Alabama, and

WHEREAS the said Eddie McCrory was seriously injured and has medical expenses to the amount of Seventy-Seven Dollars (\$77.00), and

WHEREAS no adequate compensation has been paid the said Eddie McCrory for said injuries.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That immediately upon the passage of this Act the Court of County Commissioners of Butler County, Alabama, be and is hereby authorized in its discretion to issue its warrants on the County Depository of said County in favor of the said Eddie McCrory in the sum of Seventy-Seven Dollars (\$77.00), which shall be paid by the said County Depository out of any funds in the County Depository not otherwise appropriated.

Approved September 9, 1935.

No. 417)

(S. 420—Mooneyham.

## AN ACT

To require the tax assessors and tax collectors of the several counties in this State, having a population of not less than 75,000 nor more than 110,000 people, according to the last or any succeeding Federal Census, in addition to assessing and collecting the ad valorem taxes due the State and said counties on motor vehicles, to collect the ad valorem taxes on motor vehicles due all cities and municipalities in such counties; to provide for reports and payments of collections by tax collectors; and to fix compensation of said assessors and collectors for the performance of their duties under this Act, which shall be in addition to compensation now received by them for assessing and collecting taxes for the State and such counties; and to repeal all laws or parts of laws, general or local in conflict with this Act.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That it shall be the duty of the county tax assessors and county tax collectors of this State in all counties having a population of not less than 75,000 nor more than 110,000 people, according to the last or any succeeding Federal Census, in addition to assessing and collecting the ad valorem taxes due the State and said counties on motor vehicles, to collect the ad valorem

taxes on motor vehicles due all cities and municipalities in such counties.

Section 2. Said tax collectors shall report and pay over the money collected under this Act for said counties and municipalities at the same time and in the same manner as State and County taxes are reported and paid over by him.

Section 3. Said assessors and collectors shall each receive a commission of 2-1/2% of the amount of city or municipal taxes collected, and the tax collectors shall deduct said commissions from the amount collected before paying into the Treasury of such cities or municipalities, and at the same time pay over to the tax assessor commissions due him under this Act. The commissions paid to the said assessors and collectors for performance of the services as required under this Act shall be in addition to any salary or compensation now received by them from the State or any of such counties.

Section 4. That all laws or parts of laws, local or general, in conflict with the provisions of this Act shall be and the same are hereby repealed.

Approved September 9, 1935.

No. 418)

(H. 149—Kelly

### AN ACT

To amend Section 10375, Chapter 351, Code of Alabama, 1923.

*Be it enacted by the Legislature of Alabama:*

Section I. That section 10375 (6039) (4141) (3004, 3012, 3014, 3365) (3341, 3290, 3676) (3016, 2695, 3279) (2587, 2537, 2833) be and the same is hereby amended to read as follows: PERSONAL PROPERTY LEVIED ON MAY BE CLAIMED BY A STRANGER TO THE WRIT; WHEN DELIVERED TO CLAIMANT.—When an execution, attachment, writ of detinue or other writ issued from any court or by any officer, is levied on personal property as to which any person not a party to the writ claims to own the title, legal or equitable, or a lien paramount to the right, title, or interest in the property of the defendant in the writ, such person may try the right to such property before a sale thereof upon making affidavit by himself, his agent, or attorney, which may be taken by the officer levying the writ, or any officer authorized to administer oaths, that he holds such title to or such lien upon, the property claimed, and executing bond with two good and sufficient sureties to be approved by the officer making the levy and payable to the plaintiff in double the value of the property levied



on and claimed, the value thereof to be determined by the officer making the levy; but in no case to be more than double the amount of the writ levied, with condition to have the property forthcoming for the satisfaction of the judgment or claim of the plaintiff, if it be found liable therefor, and also for the payment of such costs and damages as may be recovered for interposing the claim for delay; whereupon the property levied upon must be delivered into the possession of the claimant.

Approved September 13, 1935.

No. 423)

(H. 756—Connor.

### AN ACT

To submit to the qualified voters of the State at the next general election to be held on first Tuesday after the first Monday in November, 1936, for their consideration, an amendment to the Constitution of the State of Alabama, to be known as Section Two and Section Three of Amendment Number II, so as to authorize and empower the Legislature from time to time by general or local laws to change, merge, alter consolidate, or abolish county officers or the functions of office in Jefferson County, and to authorize the Legislature to create new or different officers to perform the services hitherto performed by those officers or offices which may have been changed, merged, altered, consolidated, or abolished, and to authorize the Legislature by general or local laws to revise and change the existing laws relating to the assessment or collection of taxes or other revenue in Jefferson County.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the following amendment to the Constitution of Alabama is hereby proposed to be submitted to the qualified voters of Alabama for their consideration as hereinafter set forth, namely: "Amendment to Constitution by the addition of Sections Two and Three to Amendment Number II: (2) The Legislature of Alabama may from time to time by general or local laws change, merge, alter, consolidate, or abolish county officers or the functions of office in Jefferson County, except Probate Judge and Sheriff and may change, modify or transfer their duties except those conferred by the Constitution of Alabama, and the Legislature may create new or different officers to perform the services hitherto performed by those officers or offices which may have been changed, merged, altered, consolidated, or abolished. (3) And the Legislature by general or local laws may revise and change the existing laws relating to the assessment or collection of revenue in Jefferson County for the purpose of increasing the efficiency or lowering the cost of such collections."

Section 2. That it shall be the duty of the Governor to give notice by proclamation to be published in one newspaper in each

county in the State at least eight successive weeks next preceding the general election in November, 1936 of the election and the amendment proposed by this Act to be submitted to the qualified voters of the State for their consideration, together with the proposed amendment.

Section 3. That at the general election held on first Tuesday after the first Monday in November, 1936, the foregoing amendment shall be submitted to the qualified electors of the State. Upon the ballots used at such election shall be printed the following, namely: "Amendment to Constitution by the Addition of Sections Two and Three to Amendment Number II: (2) The Legislature of Alabama may from time to time by general or local laws change, merge, alter, consolidate or abolish county officers or the functions of office in Jefferson County, except Probate Judge and Sheriff and may change, modify or transfer their duties except those conferred by the Constitution of Alabama, and the Legislature may create new or different officers to perform the services hitherto performed by those officers or offices which may have been changed, merged, altered, consolidated, or abolished. (3) And the Legislature by general or local laws may revise and change the existing laws relating to the assessment or collection of revenue in Jefferson County for the purpose of increasing the efficiency or lowering the cost of such collections." Following the proposed amendment on the ballot shall be printed the word "Yes" and immediately under that shall be printed the word "No". The choice of the elector shall be indicated by a cross mark by him beside the word expressing his desire.

Section 4. The officers of such general election shall conduct a poll for the vote of the qualified electors upon the proposed amendment. The election shall be held in all things in accordance with the law governing general elections. In the election upon such proposed amendment the votes cast thereat shall be canvassed, tabulated and the returns thereof be made to the Secretary of State and counted in the same manner as in elections for representatives to the Legislature, and if it shall thereupon appear that a majority of the qualified electors who voted upon the proposed amendment voted in favor of the same, such amendment shall be valid to all intents and purposes as a part of the Constitution of Alabama. The result of such election shall be made known by the proclamation of the Governor.

Passed the House of Representatives and the Senate September 6, 1935.

No. 424)

(H. 805—Kirby)

## AN ACT

To Amend Section 462 of the Code of Alabama of 1923 as amended by an Act of the Legislature of 1935, and approved by the Governor July 8, 1935.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 462 of the Code of Alabama of 1923, and as amended by an Act of the Legislature in the year 1935, and approved July the 8th, 1935, be amended so as to read as follows: 462. (372) (1606) NAMES OF CANDIDATES PLACED ON BALLOTS; CERTIFICATE OF NOMINATION.—The probate judge of each county shall cause to be printed on the ballot to be used in their respective counties, the names of all the candidates who have been put in nomination by any caucus, convention, mass meeting, primary election, or other assembly of any political party or faction in this state, and certified in writing and filed with him not more than sixty days nor less than twenty days previous to the day of election. The certificate must contain the name of each person nominated and the office for which he is nominated, and must be signed by the presiding officer and secretary of such caucus, convention, mass meeting, or other assembly, or by the chairman and secretary of the canvassing board of such primary election, and their signatures must be duly acknowledged by one or more of them before an officer authorized by law to take acknowledgments. The judge of probate shall also cause to be printed upon the ballots the name of any qualified elector who has been requested to be a candidate for any state, county, municipal or federal office by written petition signed, in case of a candidate for a state or federal office, by at least three hundred electors, and in case of a county or municipal office, by at least twenty-five electors qualified to vote in the election, to fill said office; when such petition has been filed with him before the first Tuesday in May in the year in which a state-wide Primary Election is held. In case of a person to be voted for by the electors of the whole state or of an entire congressional district or judicial circuit, the certificate of nomination or the petition must be filed in the office of the secretary of state before the first Tuesday in May in the year in which a state-wide Primary Election is held; and the secretary of state must thereupon immediately certify to the judge of probate of each county in the state, in case of an officer to be voted for by the electors of the whole state, and the judges of probate of the counties composing the circuit or district, in case of an officer to be voted for by the electors of a circuit or district, upon suitable blanks to be prepared by him for that purpose, the fact of such nomination and the name of the

nominee or nominees and the office to which he or they may be nominated. In case of a person to be voted for by the electors of a senatorial district, the petition or certificate of nomination must be filed with the judge of probate of each county composing the senatorial district. Provided, however, that the judges of probate of the several counties in this state are hereby prohibited from causing to be printed upon the ballot to be used in their respective counties the name of any independent candidate for any state, county, or federal office who had not filed his or her declaration to become such a candidate before the first Tuesday in May in the year in which a state-wide primary election is held.

Approved September 13, 1935.

No. 425)

(H. 841—Owens (Madison))

### AN ACT

To amend Section 540 of the Code of Alabama of 1923.

*Be it enacted by the Legislature of Alabama:*

That Section 540 (450) (1657) (439) (346) (394) (345) be amended so that the same will read as follows: **ELECTORAL MEETING AND SUPPLY OF VACANCIES.**—The electors of President and Vice-President are to assemble at the office of the Secretary of State, at the seat of government at twelve o'clock noon on the second Tuesday in December next after their election, or at that hour on such other day as may be fixed by Congress, to elect such President and Vice-President, and those of them present at that hour must at once proceed by ballot and plurality of votes to supply the places of those who fail to attend on that day and hour.

Approved September 13, 1935.

No. 426)

(H. 856—Hare.)

### AN ACT

To relieve Tax Assessors in all counties in Alabama which now have, or which may hereafter have a population of not less than fifty-four thousand and not more than sixty four thousand two hundred according to the last Federal Census, or any such census which may be taken hereafter, from the duty of preparing a book of assessments, and in lieu thereof to arrange in alphabetical order the original lists and have same permanently bound and kept as a permanent record and prepare Tax Collectors Abstracts from said assessment lists.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Tax Assessors in all counties in Alabama which now have, or which may hereafter have a population of fifty four

thousand not more than sixty four thousand two hundred, according to the last Federal Census, or any such census which may be hereafter taken, shall not be required to prepare the Book of Assessments, but in lieu thereof shall be required to arrange in alphabetical order original assessments, and cause the same to be bound permanently, and such assessment lists when so bound shall constitute the Book of Assessments to all intents and purposes. Such assessment lists, when bound, shall be preserved for permanent records, and in making the Tax Collectors abstracts, such abstracts shall be made direct from the assessment lists.

Section 2. All laws and parts of laws in conflict with the provisions of this Act be and the same hereby are repealed.

Approved September 13, 1935.

No. 427)

(H. 860—Coleman.

#### AN ACT

To amend Sections 2874, 2875, 2880, 2885, 2886, 2888, 2889, 4387, 4389 and 4390 Code of Alabama 1923, relative to the practice of optometry.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 2874 of the Code of Alabama 1923 be amended so as to read as follows: 2874.—WHO MAY PRACTICE OPTOMETRY—It shall be unlawful for any person in this state to engage himself in the practice of Optometry or to hold himself out as a practitioner of Optometry, or attempt to determine by an examination of the eyes the kind of glasses needed by any person, or to hold himself out as a licensed Optometrist when not so licensed, or hold himself out as able to examine the eyes of a person for the purpose of fitting the same with glasses, excepting those hereinafter exempted, unless he has first fulfilled the requirements of this article, and has received a license or certificate from the State Board of Optomerty; nor shall it be lawful for any person in this state to represent that he is the lawful holder of a license or certificate such as is provided for in this article, when in fact he is not such lawful holder, or to impersonate any licensed practitioner of optometry, or to practice optometry under a false or assumed name, or to fail to register a license or certificate as provided for in this article. Any person who violates any of the provisions of this section shall be deemed guilty of a misdemeanor and on conviction shall be fined not less than \$100.00 or more than \$1,000.00, which said fine shall be paid in money.

Section 2. That Section 2875 of the Code of Alabama 1923 be amended so as to read as follows: 2875.—STATE BOARD OF OPTOMETRY: HOW CONSTITUTED.—The governor shall ap-

point a State Board of Optometry consisting of five persons each of whom shall be a citizen of the United States, over the age of twenty-five years, a member in good standing of the Alabama Optometric Association, Incorporated, or its legal successor, and shall have been engaged in the actual continuous practice of optometry in the State of Alabama for at least five years next preceding his appointment. Said Board shall be so appointed, one for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years, and one for the term of five years, from October 1st, 1919, who shall hold said office until their successors are appointed and qualified. Thereafter, one member of said board shall be appointed each year for the term of five years and shall hold office until his successor is appointed and qualified. The Governor may remove from office at any time any member of the board for neglect of duty, incompetency, improper or unprofessional conduct, or when the license or certificate of any member has been suspended or revoked. Vacancies on said board shall be filled by appointment by the governor in the manner hereinbefore provided. The governor shall furnish each member of said board at the time of his appointment a certificate of appointment, and each appointee shall qualify by taking the usual oath of office before the judge of probate of his home county within fifteen days from date of his appointment.

Section 3. That Section 2880 of the Code of Alabama 1923 be amended so as to read as follows: 2880.—**EXAMINATION BEFORE BOARD.**—Every person desiring to commence the practice of optometry, except as otherwise provided, shall take the standard examination provided in this article and fulfill the other requirements as herein provided. Such applicant must be twenty-one years of age, or over, a citizen of the United States and of good moral character, must be a graduate of an accredited High School and must have completed the course of study in an approved school, college or University of Optometry, which requires at least three years course of study and must be able to pass the standard examination prescribed by the State Board of Optometry. Each applicant must make proper application and pay to the Secretary-Treasurer of the State Board of Optometry, the sum of Twenty-five Dollars (\$25.00). Such standard examination shall consist of tests in practical, theoretical and physiological optics, in theoretical and practical optometry and in the anatomy and physiology of the eye and in pathology as applied to optometry. Such standard examination shall not be out of keeping with the established teachings and adopted text books of recognized schools of optometry.

Section 4. That Section 2885 of the Code of Alabama 1923 be amended so as to read as follows: 2885.—**LICENSE, CONTENTS OF: DISPLAY BY HOLDER.**—Every applicant who shall pass

the standard examination, or whose reciprocity has been accepted by the State Board of Optometry, shall receive from said Board a license entitling him to practice optometry in this State, which license shall be signed by the President of the Board and countersigned by the Secretary-Treasurer of the Board and have affixed thereto the seal of the Board and be duly numbered and registered in the record book kept by the Secretary-Treasurer of said Board, which said record book shall be open to public inspection and duly certified copy of said record shall be received as evidence in all the courts of this state in the trial of any case. Each person to whom a license has been issued shall keep said license conspicuously in his office or place of business and shall whenever required exhibit the license to any member or representative of said Board.

Section 5. That Section 2886 of the Code of Alabama 1923 be amended so as to read as follows: 2886. OPTOMETRIST PRACTICING AWAY FROM OFFICE: CERTIFICATE TO PATIENT.—Whenever any licensed or registered optometrist shall practice optometry outside of or away from his office or place of business he shall deliver to each person fitted with glasses by him a certificate signed by him wherein he shall set forth the amounts charged, his postoffice address and the number of his license. And it shall be unlawful for any person whether licensed optometrists or not to solicit the sale of eye glasses or spectacles or peddle the same from house to house.

Section 6. That Section 2888 of the Code of Alabama 1923 be amended so as to read as follows: 2888.—RENEWAL OF LICENSES.—Every licensed optometrist who desires to continue the practice of optometry shall annually on or before the 1st of January pay to the Secretary-Treasurer of the State Board a renewal registration fee of \$12.00, whether a member of the association or not; provided, however, that said license shall be renewed within thirty days after January 1st, or he shall pay the renewal registration fee of \$12.00 and penalty of \$10.00. Any licensed optometrist who retires from the practice of optometry for a period of two years may have his license renewed to practice his profession on such condition as prescribed by the State Board.

Section 7. That Section 2889 of the Code of Alabama 1923 be amended so as to read as follows: 2889.—LICENSE MAY BE SUSPENDED OR REVOKED.—A license issued to any person may be suspended for a definite period of time, or revoked by the state board of optometry for any of the following reasons; to-wit: (1) Conviction of any offense involving moral turpitude, in which case, the record of conviction, or a certified copy thereof certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of such conviction. (2) For unprofessional conduct. "Unprofessional conduct" shall be

defined to mean any conduct of a character likely to deceive or defraud the public, lending his license by any licensed optometrist to any person, the employment of "cappers", or "steerers" to obtain business, "splitting" or dividing a fee with any person or persons, the obtaining of any fee or compensation by fraud or misrepresentation, employing directly or indirectly any suspended or unlicensed optometrist to do any optometrical work, by use of any advertising, carrying the advertising of articles not connected with the profession, the employment of any drugs or medicines in his practice unless authorized to do so by the laws covering the practice of medicine of this state, or the doing or performing of any acts in his profession declared by the Alabama Optometric Association to be unethical or contrary to good practice. (3) When a license or certificate has been obtained by fraud practiced on the board. (4) When the holder of a license or certificate is suffering from a contagious or infectious disease. (5) Gross incompetency. (6) Intemperance in the use of intoxicating liquors or narcotics to such an extent as unfits the holder of the license for the proper practice of optometry. Whenever charges are preferred against any holder of a license the board shall fix a time and place for the hearing of the same, and a copy of the charges, which must be made in writing, and verified by oath, together with a notice of the time and place where they will be heard and determined, shall be served upon the accused at least ten days before the date fixed for said hearing. When personal service cannot be effected, the board shall cause to be published at least thirty days prior to the date set for the hearing in a newspaper published in the county in which accused was last known to practice, a notice to the effect that at a definite time and place a hearing will be held by the board on charges preferred against said person. The board may compel the attendance of witnesses at said hearing; the accused shall have the right to be confronted by the person or persons preferring said charges, to cross-examine the witnesses against him, to be represented by counsel, and to have the testimony taken down by a stenographer,—but the expense of counsel and stenographer, either or both, shall be borne by the accused. Witnesses at hearings before the board shall testify under oath and may be sworn by any member of the board. In all cases of suspension or revocations of licenses as herein provided for, the holder may appeal to the circuit court, or other court of like jurisdiction, in the county in which the person whose license or certificate is ordered revoked resides.

Section 8. That Section 4387 of the Code of Alabama be amended so as to read as follows: 4387.—FALSE OR MISLEADING STATEMENTS IN ADVERTISEMENTS OR STORES HAVING OPTOMETRY DEPARTMENT.—It shall be unlaw-



ful for any person, firm or corporation, engaged in the practice of optometry in this state, to print or cause to be printed, or circulate or cause to be circulated, or publish, by any means whatsoever, any advertisement or circular in which appears any untruthful, impossible, or improbable or misleading statement or statements, or any thing calculated or intended to mislead or deceive the public. And it shall be unlawful for any individual, firm or corporation, engaged in the sale of goods, wares or merchandise who maintains or operates, or who allows to be maintained and operated in connection with said mercantile business an optometry department; or who rents or sub-leases to any person or persons for the purpose of engaging in the practice of optometry therein, any portion of or space in said store, premises or establishment in which such person, firm or corporation is engaged in said mercantile business, to publish, or circulate, or print or cause to be printed, by any means whatsoever, any advertisement or notice of the optometry department maintained, operated, or conducted in said establishment or place of business, in which said advertisement or notice appear any untruthful, improbable, impossible, or misleading statement or statements, or anything calculated to mislead or deceive the public.

Section 9. That Section 4389 of the Code of Alabama 1923, be amended so as to read as follows: 4389.—PENALTY FOR VIOLATIONS.—Any person, firm or corporation who violates any of the provisions of the optometric law wherein the doing of such acts is declared to be unlawful is guilty of a misdemeanor and on conviction shall be fined not less than \$100.00 or more than \$1,000.00, or may be imprisoned at hard labor for the county for not less than six months. Said fine shall be paid in money.

Section 10. That Section 4390 of the Code of Alabama 1923, be amended so as to read as follows: 4390.—COURTS AND OFFICERS HAVING JURISDICTION OF OFFENSE.—All justices of the peace and notaries public with ex-officio powers within their respective counties shall have jurisdiction concurrent with the jurisdiction of the Circuit Courts of the several counties of the violations of any of the provisions in any section relating to the practice of optometry which makes the violation of such provision unlawful. And the Solicitors, deputy and county solicitors, sheriffs and constables shall report any violation herein of which they may have knowledge. And in towns and cities having police jurisdiction, it shall be the duty of the police of said towns and cities to report said violations of the provisions herein contained to the nearest Justice of the Peace and to notify the Secretary-Treasurer of said State Board of Optometry of such violation and to render such other assistance as may be required of them in the enforcement of this law.

Section 11. The provisions of this Act shall go into effect immediately upon the passage and approval of the Governor.

Approved September 13, 1935.

No. 429)

(H. 887—Sanderson.

### AN ACT

To amend Schedule 96 of Section 348, Chapter 1, Article 13 of An Act "to provide for the General Revenue of the State of Alabama" known as House Bill 324, approved July 10th 1935.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Schedule 96 of Section 348, Chapter 1, Article 13 of an Act "to provide for the General Revenue of the State of Alabama" known as House Bill 324, approved July 10th, 1935 be amended so as to read as follows: "Schedule 96. Every person engaging or continuing in the business of operating a moving picture show, or show of like character to which admission is charged: In cities of thirty-five thousand inhabitants and over, Two Hundred Dollars; in cities and towns of less than thirty-five thousand and not less than seven thousand inhabitants, Fifty Dollars; in all other places Fifteen Dollars, provided that in cities of thirty-five thousand inhabitants or over in which the theatre is one mile or more from the city hall the license shall be Sixty Dollars per annum. Moving picture shows under this schedule shall be held to mean a show, the principal featuring of which is moving pictures and for which is required an annual privilege license in Alabama and shall be conducted within a building arranged or constructed for such purpose and no additional license shall be required if other features of entertainment, including vaudeville acts, are given during any period for which an admission is charged. Any motion picture theatre charging children under 12 years of age more than one-half of the admission charged adults shall pay double the amount herein levied under this Schedule provided this shall not apply where admission charged such children does not exceed ten cents.

Approved September 13, 1935.

No. 431)

(H. 906—Haley.)

## AN ACT

To Amend Section 325 of The Code Of Alabama, As Amended By The Act Of 1927, Entitled "An Act To Amend Sections 325, 326, 329, 332, 337, 343, 344, 345, 347, 348, 349, 354, 358, and 359, Code Of Alabama 1923, And To Repeal Section 330, Code of Alabama 1923, Relating To The Practice Of Denistry and Dental Hygiene, Composing Chapter 18, Volume 1, Of Said Code." And To Amend Sections 333, 334 and 335 Of The Code Of Alabama, And To Amend Sections 337, 348 and 359 Of The Code Of Alabama, And To Repeal Section 349, Of The Code Of Alabama, As Amended By The Act Of 1927, Entitled "An Act To Amend Sections 325, 326, 329, 332, 337, 343, 344, 345, 347, 348, 349, 354, 358, and 359, Code Of Alabama 1923, And To Repeal Section 330, Code Of Alabama 1923, Relating To The Practice Of Dentistry And Dental Hygiene, Composing Chapter 18, Volume 1, Of Said Code." And To Amend Section 357 Of The Code Of Alabama.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 325 of the Code of Alabama, as amended by the Act of 1927, entitled "An Act to amend Sections 325, 326, 329, 332, 337, 343, 344, 345, 347, 348, 349, 354, 358 and 359, Code of Alabama 1923, and to repeal Section 330, Code of Alabama 1923, relating to the practice of dentistry and dental hygiene, composing Chapter 18, Volume 1, of said Code," be and the same is hereby amended so as to read as follows: Section 325. DENTISTRY AND DENTISTS DEFINED; EXEMPTIONS: Any person shall be said to be practicing dentistry within the meaning of this act who uses, or permits his or her agents or employees to use, the words "Dentist", "Dental Surgeon", "Surgeon Dentist", "Doctor of Dental Surgery", "Doctor of Dental Medicine", the letters "D.D.S.", "D.M.D.", or other letters or title in connection with his or her name which in any way represents him or her as engaged in the practice of dentistry; or who advertises, or permits his or her agents or employees to advertise, by sign, letterhead, card, circular, handbill, device, directory, newspaper, radio, personal solicitation from house to house, or otherwise, that he or she or any of his or her agents or employees can or will attempt to perform dental operations of any kind whatsoever; or who owns, maintains, operates or conducts an office as manager, proprietor, lessee, or otherwise where dental operations are performed; or who gratuitously, for a fee, salary or other reward paid or to be paid either to himself, herself, or any other person, shall diagnose, treat, offer or profess to treat any disease, lesion, pain, injury, deficiency, deformity or other abnormality of the human oral cavity, or shall remove deposits, accretions or stain from human teeth, polish the same and treat the gums and alveolar process surgically, medicinally or otherwise; or who makes restorations of lost human tooth structure with fillings, inlays or crowns, or who takes impressions of human teeth or jaws, and

supplies lost teeth with bridges or dentures; or who devitalizes or removes the pulp from human teeth, treats the root canal and fills the same; or who extracts human teeth, removes tumors, abnormal growths or other lesions from the human gums and jaws; or who operates for harelip or cleft palate; or who treats surgically or mechanically fractures of the human jaws; or who administers local or general anesthetics in the treatment of any dental lesion; or who uses or advertises to use an X-ray machine of any type in administering therapeutic treatment of any dental lesion, or in making radiograms, shadows, negatives or X-ray exposures of human teeth and jaws to be used by himself, herself or any other person for the purpose of making a diagnosis of any disease, lesion or abnormality or the human oral cavity; or who constructs or repairs himself, herself or by his or her employees or agents, a denture, bridge, orthodontic or other dental appliance on a model or cast made from an impression taken by anyone except a dentist licensed to practice by a board of examiners duly elected or appointed and only on said dentist's instructions and authorization, and the burden of proving such authorization shall be upon the person, persons or organization charged with the violation of this act; or who shall deliver, or cause to be delivered, in person, by carrier, mail or other method, said appliance except to a dentist licensed and qualified as above provided for; or who does, or contracts to do, any practice included in the curriculum of a reputable dental college, or the dental department of a university. To own, maintain, operate or conduct an office as manager, proprietor, lessee, or otherwise, where dental operations are performed, shall be prima facie evidence that such person is engaged in the practice of dentistry. Provided, however, that nothing in this act shall prevent a dental assistant from assisting a legally qualified dentist, as herein provided for, at the chair, or about the office in routine dental practice, from rendering first-aid in the relief of pain and discomfort of the patients of her employer in the latter's absence; from using the X-ray machine for making dental radiograms under the instruction and direct immediate supervision of her employer or a licensed dentist and within the confines of his or her office, from rendering dental relief in emergency cases, or from treating any disease or lesion of the oral cavity coming within the province of the practice of Dentistry or Dental surgery; or schools, prisons, asylums, orphanages, corporations, or eleemosynary institutions, from maintaining and operating clinics for pupils, inmates or employees, provided all dentists in said capacity shall be legally qualified according to all of the provisions of this act, and provided further that no monetary profit shall accrue from said practice; or competent professors or instructors from teaching and demonstrating in a dental school; or bona fide students from performing operations under the supervision of the said instructors in

dental colleges or schools, or the dental department of universities located in this state, and recognized by the Board of Dental Examiners of Alabama as reputable; or students from working under a dental preceptor during the vacation period between dental college sessions, and under such rules and regulations as the Board of Dental Examiners of Alabama may formulate and prescribe, provided that this exemption shall apply to not more than the vacation periods occurring immediately after the undergraduate years, and each such period ending at the beginning of the next regular dental school session; or clinicians from demonstrating certain methods of dental practice or technique before a dental society or other study group; or an outstanding ethical dentist licensed in another State from performing the necessary duties incident to being called into this State in consultation on a specific case; or any person employed in or connected with a commercial dental laboratory from the performance of mechanical work on inanimate objects only in the construction or repair of dentures, crowns, bridges, obturators, orthodontic or other dental appliances, provided that impressions, casts or measurements for such work shall have been made or taken by a dentist licensed to practice as herein provided for, and that said construction or repair shall be done only on his or her authorization, and to be delivered only to a dentist licensed to practice as herein provided for; or the employment of a dental hygienist by a licensed dentist, public institution, school or hospital as provided for in this act.

Section 2. Be it enacted by by the Legislature of Alabama that Section 333 of the Code of Alabama be and the same is hereby amended so as to read as follows: Section 333. CERTIFICATE REFUSED, SUSPENDED OR REVOKED; GROUNDS FOR.—The Board of Dental Examiners of Alabama may refuse to issue certificate, suspend or revoke the same for any of the following causes;—The presentation to the Board of a diploma, certificate, license, or other credentials, illegally or fraudulently obtained, or obtained from an irregular, unrecognized or disreputable institution or licensing board of agency; being guilty of cheating or deception in examination; lending, renting or selling any dental certificate or dental diploma to any other person to be used by such other person as his or her diploma or license; the employment, directly or indirectly, of any person to practice dentistry who does not hold a certificate as herein provided; the commission of a criminal operation; chronic or persistent inebriety; addiction to drugs to such an extent as to render him or her unsafe and unreliable as a practitioner; guilty of gross immorality which would tend to bring reproach upon the profession; obtaining a fee for dental service by fraud or misrepresentation; soliciting the division of fees, or agreeing to split, divide, or rebate a part of the fee received for dental

services, with any person, corporation, association, organization, or any other group, as a remuneration or compensation for referring persons as patients; being guilty of gross ignorance, conviction of a misdemeanor or felony involving moral turpitude, in which case the record of conviction or a copy thereof, certified by the clerk of the court or judge in whose court the conviction occurred, shall be sufficient and conclusive evidence of guilt; being guilty of unprofessional dental conduct. "Unprofessional dental conduct" shall mean advertising professional superiority or the performance of professional services in a superior manner; advertising prices for professional service; advertising by means of large display, glaring light signs, or containing as a part thereof the representation of a tooth, teeth, bridge work, or any portion of the human head; employing or making use of advertising solicitors or free publicity press agents; or advertising any free dental work or free examination; or advertising to guarantee any dental service or to perform any dental operation painlessly; advertising the use of any drugs, anesthetic or material in the practice of dentistry; the employment of what are known as "Cappers" or "Steerers" to solicit patronage; distributing cards, handbills, posters, or any other media, calling the attention of the public to any specific person engaged in the practice of dentistry; the public demonstration of a method of dental practice upon or along the streets or highways, or in any other place except in a regular dental office, as a means of obtaining patronage; advertising, for the purpose of obtaining patients, on the sidewalks, stairways, hallways, or anywhere else except within the confines of a dental office, by means of showcases containing human teeth, fillings, inlays, crowns, bridges, dentures, or any other dental restorations or appliances of any kind, plaster or other reproduction of human teeth and maxillary bones, the human skull or any part thereof, or photographic or radiographic representation of any part of the human face or jaws; making use of any advertising statements or acts tending to deceive, mislead, or defraud the public. Any person found guilty of violating any of the provisions of this section shall be subjected to the revocation or suspension of his or her certificate as provided for in this act. Provided that any person licensed under the provisions of this act may announce by way of a professional card his name, title, degree, office address, office hours, office telephone number, residence address, and residence telephone number; and, if he or she limits his or her practice to a specialty, it may be so announced, provided such card shall not be greater in size than two (2) inches by three and one-half (3½) inches, and such information may be inserted in public print or in hotel or other directory, provided it shall not occupy space greater than two (2) inches in depth nor more than one (1) newspaper column in width; or may announce his or her change of place of business,

absence from or return to practice in the same manner; or may issue appointment and instruction cards to patients, provided the information thereon is limited to advice and instruction to patients as to appointment and treatment and to that permitted on the personal professional card; or may display his or her name on the office doors, windows, or directory, provided the information is limited to that of the personal professional card, and provided further that said information shall not be displayed in lettering larger than seven (7) inches in height; provided further that nothing in this section shall prevent the Board of Dental Examiners of Alabama, or other body, from advertising a free dental clinic for examination or educational purposes; and provided further that it shall not be unlawful to use the radio for broadcasting health lectures, provided same have been sponsored and approved by the Alabama Dental Association, or a component part thereof, or any dental society recognized by or forming a part of the American Dental Association.

Section 3. Be it enacted by the Legislature of Alabama that Section 334 of the Code of Alabama be and the same is hereby amended to read as follows: Section 334. The proceedings under this section may be taken by the board from the matters within its knowledge, or may be taken upon the information of another; provided, however, that if the informant is a member of the board, the other members of said board shall constitute the board for the purpose of finding judgment of the accused. All accusations must be in writing, verified by some party familiar with the facts therein charged, and three copies thereof must be filed with the secretary of the board. Upon receiving the accusation the board shall, if it deems it sufficient, make an order setting the same for hearing, and requiring the accused to appear and answer it at said hearing, at a specified time and place, and the secretary shall cause a copy of the order and of the accusation to be served upon the accused, at least, 10 days before the day appointed in the order for said hearing. The accused must appear at the time appointed in the order and answer the charges and make his defense to the same, unless for sufficient cause the board assign another day for that purpose. If he does not appear the board may proceed and determine the accusation in his absence. If the accused plead guilty or refuse to answer the charges, or, upon the hearing thereof, the board shall find them or any of them true, it may proceed to a judgment of either revoking his certificate or suspending it. The board and the accused may have the benefit of counsel, and the board shall have power to administer oaths, take the depositions of witnesses in the manner provided by law in civil cases and compel them to attend before it in person the same as in civil cases, by subpoena issued over the signature of the secretary and the seal of the board and in the name of the people of the State of Alabama. Upon revocation or suspen-

sion of any certificate the fact shall be noted upon the records of the Board of Dental Examiners and the certificate shall be marked as cancelled or suspended upon the date of its revocation or suspension, and it shall be a misdemeanor for such person, whose certificate is so revoked or suspended, to engage in the practice of dentistry or to perform any of the acts defined as the practice of dentistry after the revocation of such certificate or during the time of suspension of such certificate.

Section 4. Be it enacted by the Legislature of Alabama that Section 335 of the Code of Alabama be and the same is hereby amended to read as follows: Section 335. In case of the suspension or revocation of a certificate by the said board, the person whose certificate shall have been suspended or revoked by the said board shall have the right to appeal from said suspension or revocation within 30 days of the cancellation of said certificate. Such appeal shall be to the circuit court in and for the county in which the accused resides. In case a person desires to take such appeal, he shall serve, or cause to be served, upon the secretary of said board a written notice of such appeal, which shall contain a statement of the grounds of such appeal, and shall file in the office of the clerk of the court an appeal bond with good and sufficient surety, to be approved by the clerk of the court, to the State of Alabama, conditioned for the speedy prosecution of such appeal and the payment of such costs as may be charged against him upon such appeal. Said secretary, within 10 days after the service of said notice of appeal, and the filing and approval of said bond shall transmit to the clerk of the Circuit Court, to which said appeal is taken, a certified copy under the seal of said board of accusations on which the suspension or revocation was based, the ground for appeal, together with the notice. The clerk of such court shall thereupon docket such appeal causes and they shall be tried in all respects as ordinary civil actions and like proceedings shall be had thereon. Upon such appeal said cause shall be tried *de novo*. Either party may appeal from the judgment of the circuit court to the Supreme Court in the manner as civil actions may be appealed thereto. The judgment shall be stayed from the date of the approval of said bond until final determination of said appeal.

Section 5. Be it further enacted by the Legislature of Alabama that Section 337 of the Code of Alabama, as amended by the Act of 1927, entitled "An Act to amend Sections 325, 326, 329, 332, 337, 343, 344, 345, 347, 348, 349, 354, 358, and 359, Code of Alabama, 1923, and to repeal Section 330, Code of Alabama 1923, relating to the practice of dentistry and dental hygiene composing Chapter 18, Volume 1, of said Code," be and the same is hereby amended so as to read as follows: Section 337. BOARD OF DENTAL EXAMINERS; ELECTION, TERM OF OFFICE.—The board of



dental examiners shall consist of five persons who shall be members in good standing, at the time of election, of the Alabama Dental Association, and not connected with or interested in any dental school or college or dental supply business, and must have practiced dentistry in this State for a period of not less than five (5) years. The Alabama Dental Association shall elect annually one member of said board from its membership for a term of five years, the term to begin immediately, and said member so elected shall not, at the expiration of the said term, be eligible for reelection.

Section 6. Be it enacted by the Legislature of Alabama that Section 348 of the Code of Alabama, as amended by the Act of 1927, entitled "An Act to amend Sections 325, 326, 329, 332, 337, 343, 344, 345, 347, 348, 349, 354, 358, and 359, Code of Alabama 1923, and to repeal Section 330, Code of Alabama, 1923, relating to the practice of dentistry and dental hygiene, composing Chapter 18, Volume 1, of said code," be and the same is hereby amended so as to read as follows: Section 348. **CERTIFICATE OR LICENSE FEE; DUPLICATE CERTIFICATE; REGISTRATION.**—The said Board of Dental Examiners of Alabama shall charge each person applying to it for a certificate to practice dentistry or dental surgery in this State a fee for examination of Twenty Dollars. Should an applicant for certificate fail to pass a satisfactory examination, such person may take a re-examination at the next annual meeting of said board, at which time such person shall be exempt from the payment of the examination fee; but this exemption shall not be construed to apply except at the next regular annual meeting of the said board. Said Board of Dental Examiners shall also charge each person receiving from it a certificate or license to practice dentistry or dental surgery in this State a certificate or license fee of Five Dollars for every certificate or duplicate certificate or license or duplicate license issued by said board. The Board of Dental Examiners of Alabama may, in its discretion, and under such rules and regulations as it may adopt—but it shall not be mandatory nor obligatory—recognize and accept a certificate of proficiency covering or pertaining to any part or the whole of the subjects examined on, either theoretical or clinical, or both, and issued by the National Board of Dental Examiners in lieu of the examination or any part thereof provided for above in this section, provided the said National Board of Dental Examiners is elected by and representative of one or more national bodies of organized dentistry, and recognized by the American Dental Association.

Section 7. Be it enacted by the Legislature of Alabama that Section 357 of the Code of Alabama be and the same is hereby amended so as to read as follows: Section 357. **ANNUAL REPORT.**—The Secretary-Treasurer of said Board of Dental Examiners of Alabama shall make an annual report to the Alabama Den-

tal Association, containing an itemized statement of all moneys received and disbursed, and a summary of its official acts during the preceding year, and said report shall have attached thereto as an exhibit and made a part thereof, a certified report and audit, which audit and report shall be made by a Certified Public Accountant of the State of Alabama, to be selected by the President of the Dental Association of Alabama, and to be paid from the funds of the Board of Dental Examiners of Alabama. A copy of said report shall be filed in the office of the State Comptroller.

Section 8. That Section 359 of the Code of Alabama, as amended by the Act of 1927, entitled "An Act to amend Sections 325, 326, 329, 332, 337, 343, 344, 345, 347, 348, 349, 354, 358, and 359, Code of Alabama 1923, and to repeal Section 330, Code of Alabama 1923, relating to the practice of dentistry and dental hygiene, composing Chapter 18, Volume 1, of said Code," be and the same is hereby amended so as to read as follows: Section 359. PERMIT AS TO DENTAL HYGIENE ISSUED; REGISTRATION OF; FEES FOR. Any dentist who is legally qualified to practice in the State of Alabama may be issued a permit by the Board of Dental Examiners of Alabama to employ dental hygienists under such terms and conditions as may be proposed by the Board of Dental Examiners of Alabama. Any one who employes a hygienist must make application to the Board of Dental Examiners of Alabama for a permit to employ a specific person whose name, together with such other information as may be desired, shall be furnished to said board, and the board may also require the proposed hygienist to submit to an examination. Such permit shall cover the specific employment to which it refers, and does not authorize the holder thereof to employ any other hygienist than the one named in the permit. Hygienists shall not perform any operations any where at any time, any place, except under the supervision or in the office of a legally qualified dentist or in a school or hospital that holds a permit from the Board of Dental Examiners to employ such hygienist; provided, however, that nothing in this act shall prevent a dental assistant from assisting a legally qualified dentist, as herein provided for, at the chair, or about the office in routine dental practice, from rendering first aid in the relief of pain and discomfort of the patients of her employer in the latter's absence; and said permit shall be displayed at all times in the office of the holder thereof at such place as to be easily accessible to the public or his patients. Each permit must be renewed with the Board of Dental Examiners whenever such person changes employers, for which the Board may charge a fee not to exceed Five Dollars. Said Board may cancel any such certificate, which they may have issued, for violation of the laws of Alabama relating to the practice of dentistry or for the violation of any of the rules or regulations of said Board,

after giving such person ten (10) 'days' notice of the time and place of hearing, and should the Board revoke said certificate, such person shall have the right of appeal to the Circuit Court, to be heard and governed as appeals by dentists in such cases are heard and governed. The State Board of Health, Schools or hospitals may be issued permits to employ hygienists under such terms and conditions as may be proposed by the Board of Dental Examiners. Any dentist who permits hygiene to be done in his office without having been issued a permit as herein provided, or any person who is employed as a hygienist whose employer has not obtained a permit, shall be guilty of a misdemeanor, and upon conviction, for the first offense shall be fined not less than Fifty Dollars nor more than Five Hundred Dollars, and for the second offense not less than Two Hundred Fifty Dollars nor more than Five Hundred Dollars, and may also be imprisoned at hard labor not less than three months nor more than twelve months. Nothing, however, in this Act shall be construed to prevent a dental student from performing dental hygienic operations under the supervision of a competent instructor in dental hygiene recognized by the Board of Dental Examiners of Alabama.

Section 9. Be it enacted by the Legislature of Alabama that Section 349 of the Code of Alabama, as amended by the Act of 1927, entitled "An Act to amend Sections 325, 326, 329, 332, 337, 343, 344, 345, 347, 348, 349, 354, 358, and 359, Code of Alabama 1923, and to repeal Section 330, Code of Alabama 1923, relating to the practice of dentistry and dental hygiene, composing Chapter 18, Volume I, of said Code," be and the same is hereby repealed.

Section 10. Be it enacted by the Legislature of Alabama that the provisions of this act are severable, and if any of its provisions are declared unconstitutional, the decision so holding shall not be construed as impairing or altering any other of its provisions. It is hereby declared as the legislative intent that this act would have been adopted had such unconstitutional provisions not been included therein.

Approved September 13, 1935.

No. 432)

(H. 908—Miller.

### AN ACT

To Amend Section 148 of Article 5 of House Bill 324 providing for the General Revenue of the State of Alabama.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 148 of Article 5 of House Bill No. 324 providing for the general revenue of the State of Alabama be

amended so as to read as follows: "Section 148. There is hereby levied and shall be collected from every person doing an express business between points wholly within this State and without reference to its interstate business, whether incorporated under the laws of this State or any other State, or whether incorporated at all a license or privilege tax of Four Thousand Dollars (\$4,000.00), which shall be paid to the State Tax Commission by check made payable to the State Treasury by said company on or before the expiration of the fifteenth day of each fiscal year, provided that any express company which operates on less than fifty miles of railroad, street railway, motor line or boat line, shall pay an annual tax of Two Hundred and Fifty Dollars (\$250.00), and provided, that any express company which operated on fifty miles of railroad, street railway, motor line or boat line, and less than two hundred miles of railroad, street railway, motor line or boat line, shall pay an annual license of Five Hundred Dollars (\$500.00): and provided further, that all express companies that operate on two hundred and not over five hundred miles, shall pay an annual tax of Two Thousand Five Hundred Dollars (\$2,500.00). It is not intended that the taxpayer under Section 147 and 148 of Article 5 of this Act shall pay both the taxes therein mentioned, but that the tax payer shall pay the larger of the two. Provided, however, the tax levied by Section 147 and the provisions of Section 147.2. and the tax levied by Section 148 shall not apply to bus lines which pay a license and mileage tax under the Alabama Motor Carrier Act of 1931, and which carry express as a regular part of their business of hauling passengers.

Approved September 13, 1935.

No. 433)

(H. 913—Taylor.

### AN ACT

To Create And Provide For and Regulate A Department of Labor In The State Of Alabama; To Prescribe Its Authority And Jurisdiction, and Provide For A Commissioner Of Labor And Fix His Salary And Define His Duties. And To Make An Appropriation Therefor.

*Be it Enacted by the Legislature of Alabama:*

Section 1. A Department of Labor is hereby created and established.

Section 2. It shall be the duty of the Department of Labor, under the direction of the Governor, to administer all laws relating to hours of work, child labor, employer and employee, working conditions, and to promote the voluntary arbitration, mediation,

and conciliation of disputes between employer and employee; to establish and conduct free public employment offices. The provisions of this Act shall not apply to any state-owned or operated institution, nor to laws pertaining to the regulation and inspection of mines, nor to Workmen's Compensation laws and the enforcement thereof.

Section 3. The Department of Labor shall have a seal on which shall be the words "Department of Labor, State of Alabama", which shall be affixed to all copies of official documents and reports, and any document or report to which said seal is affixed, together with a certificate that it is a true copy of the original, shall be received as evidence in all courts in lieu of and to the same extent as the original might be received. The Department of Labor shall be headed by a Commissioner of Labor who shall be appointed by the Governor and commissioned, as other State Officers are commissioned, and who may be removed by the Governor with or without cause. His term shall be for four years, unless removed by the Governor. He shall be paid a salary of \$3600.00 per year in equal monthly installments, as the salary of other State Officers are now paid.

Section 4. It shall be the duty of the Commissioner of Labor to create within the Department of Labor such number of divisions as will provide for the most efficient administration of this Act, and he shall, with the approval of the Governor, employ such clerical, technical, and such other assistants as may be necessary to aid him in the performance of the duties enjoined on him by the Act, provided that such employment is approved by the Governor.

Section 5. The salary of any persons employed by the Commissioner of Labor shall not exceed \$2400.00 per year and may be such less amount as may be fixed by the Commissioner of Labor. All salaries shall be approved by the Governor, and any person employed by the Commissioner of Labor may be removed by him at any time. The Commissioner of Labor shall designate the heads of various departments, and by rule or regulation designate the titles by which they are to be generally known, as well as the title of other employees in the department, and assign them their duties.

Section 6. The Commissioner of Labor, with the approval of the Governor, may create an Advisory Council, to be composed of such persons as the Governor shall approve, and be paid such compensation, if any, as the Governor shall approve, not to exceed, however, \$10.00 per day for each meeting attended by members of the Council, or each day actually spent in the work of the Council, and not exceeding a total expense of \$300.00 per year for each member of such Council.

Section 7. It shall be the duty of the Commissioner of Labor to make a continuous study of labor conditions in Alabama, including living conditions, hours of work, wages paid, and all other facts that pertain to a study of labor in this State, including safety devices, safety guards, and means of protection against accidents, and means and methods of preventing industrial and occupational diseases; to collect, collate, and publish statistics and other information relating to labor in Alabama, and annually on or before the first day of October of each year file with the Governor a report covering the activities of the Department of Labor, accompanied by recommendations of the Commissioner of Labor.

Section 8. Wherever it is in this Act provided that laws relating to certain subjects shall be administered by the Department of Labor, which laws are now being administered by some other department of the State Government, it is the purpose and intent of the Legislature to transfer the administration of such laws from said departments to the Department hereby created; and in effecting the transfer, all the books and records pertaining to such matters shall be forthwith transferred to the Department of Labor.

Section 9. Suitable offices and office equipment and supplies shall be furnished the Department at the expense of the State in the same way and manner as such offices, office equipment and supplies are now furnished other State Departments.

Section 10. There is hereby appropriated the sum of \$20,000.00 or, so much thereof as may be approved by the Governor, annually, for the operation of the Department of Labor, out of any monies in the State Treasury not otherwise appropriated, to be paid upon a warrant drawn by the Commissioner of Labor on the State Treasury, approved by the State Comptroller and the Governor.

Section 11. If any section, paragraph, or provision of this Act shall be declared unconstitutional, such holding shall not affect any other part of said Act not in itself unconstitutional.

Section 12. This Act shall take effect upon its approval by the Governor, and all laws or parts of laws in conflict therewith are hereby expressly repealed.

Approved September 11, 1935.

No. 434)

(H. 925—Waldrep.

## AN ACT

To require the probate judge of the county, circuit court clerk and the registrar of vital statistics of each registration district to furnish the board of registrars of their respective counties with certain information.

*Be it enacted by the Legislature of Alabama:*

Section 1. That in addition to all other duties now required by law, the several registrars of vital statistics for each of the several registration districts of this State shall furnish to the board of registrars of the county in which such district is located, once each month, a report of the death of all persons over twenty-one years of age who resided in such registration district.

Section 2. In addition to all other duties now required by law, the probate judges of the several counties of this State, shall furnish to the board of registrars of their respective counties, once each month, a list of all residents of the county, twenty-one years of age or over, who have been declared insane by inquisition of lunacy.

Section 3. In addition to all other duties now required by law, the clerks of the circuit courts of this State, shall furnish to the board of registrars of their respective counties, once each month, a list of all residents who have been convicted of any offense mentioned in Section 182 of the Constitution of 1901.

Section 4. This Act shall take effect immediately upon its approval by the Governor.

Approved September 13, 1935.

No. 435)

(H. 968—Haley.

## AN ACT

To provide that twenty-five percentum of all moneys paid into the State Treasury by Dentists shall be paid over to the Alabama Dental Association, to be used by The Alabama Board of Dental Examiners for prosecuting violations of the Dental Laws of Alabama and other necessary purposes.

*Be it enacted by the Legislature of Alabama:*

Section 1. That twenty-five percentum of all moneys paid into the State Treasury by dentists for licenses or occupational taxes shall be paid over annually to the Secretary-Treasurer of the Alabama Dental Association. Such amount shall be paid upon the warrant of the Comptroller, drawn on the State Treasurer, upon the application of the Secretary-Treasurer of the Alabama Dental Association to the Comptroller. Said funds shall be used by the Alabama

Board of Dental Examiners for prosecuting violations of the laws of the State of Alabama relating to the practice of dentistry and other necessary purposes and expenses of such Board; provided, however, such sums shall not exceed \$1500 per annum.

Section 2. This Act shall go into effect immediately after its passage and approval by the Governor.

Approved September 13, 1935.

No. 439)

(H. 1019—Coleman

### AN ACT

For the purpose of paying a debt of honor and to do honor to Alabama's outstanding living hero of all wars, Sidney E. Manning of Flomaton, Escambia County, Alabama, Corporal Company "G" 167th Infantry, 42nd (Rainbow) Division; to make appropriations for the purpose of carrying out the provisions of this Act and to provide a Committee whose duties will be that of carrying out the provisions of this Act under such plans and regulations, which regulations shall have the force and effect of law, as may be approved by the Governor.

#### *Be it enacted by the Legislature of Alabama:*

Section 1. There is hereby appropriated out of the State Treasury out of funds not otherwise appropriated the sum of Five Thousand (\$5,000.00) Dollars or such part of that sum as may be necessary for the purpose of procuring not less than twenty (20) acres of desirable farm land and erecting thereon a suitable and appropriately equipped home, outbuildings of substantial character and in numbers adapted to the domestic needs of his family, fences for fields, pastures, orchards, vineyards, and flower and vegetable garden for Sidney E. Manning, the one man of the over ninety (90,000) thousand persons from Alabama who saw service in the Armed forces of the United States in the World War 1917-1918, who was awarded The Medal of Honor, by our United States Congress, "For conspicuous gallantry and intrepidity above and beyond the call of duty in action with the enemy near Breuvannes, France, July 28, 1918."

Section 2. There shall be appointed by the Governor a Committee of three citizens of Alabama whose duties shall be those of conferring with Sidney E. Manning and the Governor on such matters as will be appropriate and necessary in carrying out the plans described in this Act under such plans and regulations as the Committee may adopt and the Governor may approve. One member of the Committee shall be selected from the American Legion, one from among the Veterans of the Rainbow Division and a third from the citizenry at large, all of whom shall serve without com-



pensation: Provided, that for the purpose of paying expenses incident to the proper performance of their duties, as members of this committee, in addition to the sum provided in Section 1, there is hereby appropriated the sum of two hundred and fifty (\$250.00) Dollars, or such part of this sum as may be needed, to be paid out of the Treasury out of moneys not otherwise appropriated on vouchers approved by the Governor; Provided further, that the property purchased under the provisions of this Act and household furniture, farm implements, cattle, horses, mules, hogs, domestic fowls, and other similar essentials to a well equipped farm plant, as may be determined by the Committee and approved by the Governor, shall be exempt from all City, County and State Tax during the life of Sidney E. Manning and his widow should she remain unmarried, and provided further that the said Sidney E. Manning shall not have the right nor power to sell, mortgage, or encumber such property and upon his death his wife shall have a life estate so long as she remains unmarried; the said property to descend to the heirs of the body of the said Manning in fee simple upon the death of his wife or her remarriage, otherwise to descend to the said heirs upon the death of said Manning.

Section 3. This Act and all and each of its various sections and provisions, shall be liberally construed in favor of the purposes of the Act and it shall become effective on the approval of the Governor.

Approved September 13, 1935.

No. 440)

(H. 1048—McDermott

### AN ACT

To authorize the State Land Commissioner with the approval of the Governor, to contract with some person or firm in each county to investigate sales of real estate for taxes and bid in for the State, to notify parties in interest of such sales, to secure redemptions, to secure sales of property subject to sale at private sale by the State; and to fix the compensation for such services, and to repeal all laws or parts of laws in conflict herewith, and to fix the time when this act shall go into effect.

*Be it enacted by the Legislature of Alabama: —*

Section 1. The State Land Commissioner, with the approval of the Governor, may contract with some person or firm in each county of this State to investigate sales of real property for taxes and bid in for the State, to notify parties at interest in such real estate of such sales, to secure redemptions of said property, to secure sales of said property subject to sale at private sale by the State.

**Section 2.** For such services rendered under the preceding section, the State Land Commissioner may allow fair compensation, to be fixed in the contract, which shall not exceed 10% of the proceeds of such rent, sale or redemption, and shall be paid from the funds so received.

**Section 3.** All laws and parts of laws in conflict herewith are hereby expressly repealed.

**Section 4.** This Act shall go into effect immediately upon its passage.

Approved September 13, 1935.

No. 441)

(S. 7—Wellborn

### AN ACT

To make appropriation to the State Board of Education and provide funds for the purpose of paying the interest due to the creditors of Florence State Teachers College, Jacksonville State Teachers College, Livingston State Teachers College, Troy State Teachers College, Montgomery State Teachers College, and A. & M. Institute for Negroes, said interest being on indebtedness and due prior to July 1, 1933, and all being now due to creditors of the said institutions.

*Be it enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated out of the General Fund of the State Treasury of the State of Alabama to the State Board of Education for the purpose of paying the interest on indebtedness created prior to July 1, 1933, and now due to the creditors of the institutions hereinafter named as follows: (1) For Florence State Teachers College, nineteen thousand one hundred eighteen dollars and eighty-four cents (\$19,118.84); (2) For Jacksonville State Teachers College, twenty-seven thousand seven hundred forty-one dollars and eight cents (\$27,741.08); (3) For Livingston State Teachers College, twelve thousand nine hundred thirty-six dollars (\$12,936.00); (4) For Troy State Teachers College, six thousand five hundred fifty-seven dollars and fifty-nine cents (\$6,557.59); (5) For Montgomery State Teachers College, eight thousand sixty-eight dollars and fourteen cents (\$8,068.14); (6) For A. & M. Institute for Negroes, six thousand one hundred eighty-two dollars (\$6,182.00). Or so much of each of the above amounts appropriated as may be necessary, in the opinion of the Governor, to discharge the debts of the said institutions above named created prior to July 1, 1933.

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor.

Approved September 13, 1935.

No. 442)

(S. 73—Wellborn

## AN ACT

Relating to the liability of owners and operators of motor vehicles to guests.

*Be it enacted by the Legislature of Alabama:*

Section 1. The owner, operator or person responsible for the operation of a motor vehicle shall not be liable for loss or damage arising from injuries to or death of a guest while being transported without payment therefor in or upon said motor vehicle, resulting from the operation thereof, unless such injuries or death are caused by the willful or wanton misconduct of such operator, owner or person responsible for the operation of said motor vehicle.

Section 2. This Act shall be effective immediately upon its passage and approval.

Approved September 13, 1935.

No. 443)

(S. 247—Kelly.

## AN ACT

To amend Sections 1058, 1063, 1074, 1081, 1141, 1146, and 2051 of the Code of Alabama, as amended by the Acts of 1927, all of which relate to the public health of Alabama.

*Be it enacted by the Legislature of Alabama:*

That Section 1058, 1063, 1074, 1081, 1141, 1146, and 2051 of the Code of Alabama, as amended by the Acts of 1927, all of which relate to the public health of Alabama, be amended to read, respectively, as follows:

Section 1058. DUTIES OF COUNTY HEALTH OFFICERS PRESCRIBED. It shall be the duty of the County Health Officer: (1) To exercise, subject to the advice of the County Board of Health and in accordance with the health laws of the State, general supervision over the sanitary interests of the county, and should he discover any cause of disease, or the existence of any condition detrimental to the health of the people, he shall, so far as authorized by law, compel the removal or abatement of the same, and should no authority for removal or abatement exist, he shall report the fact to the County Board of Health, adding such recommendations as to special action as he may deem proper. (2) To make personal and thorough investigation of the first case, or early cases, of any diseases suspected of being, or known to be, any one of those enumerated in Section 1092 of the Code that may come

to his knowledge or be reported to him; and should he decide such case, or cases, to be one of those enumerated in said section, and in imminent danger of spreading, he shall, in accordance with the law, institute immediate measures to prevent the spread of such disease, and shall forthwith report the facts to the Chairman of the County Board of Health, and to the State Health Officer. He shall cause to be kept accurate records regarding the incidence, cause, source and results of all such out-breaks. Said records are to be kept on file in the office of the County Health Departments of the several counties in which such outbreaks occur, or in the State Health Department when necessary. Said records, when certified to by the County Health Officer or his successor in office, under oath, shall be accepted as evidence of the facts set forth in the record by the courts. (3) To procure, at the expense of the county, an adequate supply of vaccine virus to protect the population of the county against smallpox, and to enable him to effectuate any provisions for vaccination as may be prescribed by county or municipal boards of education or county boards of health. (4) (a) To visit all jails, whether county or municipal, all convict camps, and the county almshouse, at least once a month, and to make careful investigation as respects the drinking water, the food, the clothing, and bedding supplied to the prisoners of the former and the inmates of the latter; also, as to the ventilation, air space, heating and bathing facilities, closets, drainage, etc., of these institutions; and when any of said supplies are found to be inadequate in quantity or deficient in quality, or any of said conditions insanitary, the County Health Officer shall make in writing a report thereof to the Judge of Probate and the Court of County Commissioners; or other like Board, or the proper municipal authorities, as the case may be; whereupon, said Judge of Probate and Court of County Commissioners, or other like Board, or the proper municipal authorities, as the case may be, shall carry out whatever recommendations are made by the County Health Officer, and said Health Officer shall forward duplicates of his reports to the State Health Officer. In the event of failure of compliance with said recommendations, it shall be the duty of the proper State authorities to take appropriate action. (b) He shall visit the county courthouse and any other public building belonging to the county once each month and make investigations corresponding with those laid down in this section as applying to the jail and almshouse, and should he find insanitary conditions existing he shall report the same to the Court of County Commissioners, or other like board; and the Court of County Commissioners, or other like board, shall remedy the insanitary conditions in accordance with the recommendations of the County Health Officer. (5) To transmit to the State Board of Health by the tenth day of each month all original birth, stillbirth, and death

certificates, and reports received by him from registrars, coffin dealers, hospitals, and other institutions, for the preceding month; also any delayed certificates received by him during the month; and such other weekly and monthly reports as may be required. (6) To make to the County Board of Health and Court of County Commissioners, or like body, a monthly report of activities and accomplishments. (7) To appear before the Grand Jury at each of its sittings and to report all violations of the health laws of the State, especially any wilful failures on the part of the physicians of the county, including all municipalities therein, to report the births, deaths, and infectious diseases that occur in their practice; also, to report all failures on the part of midwives to report the births and the deaths that occur in their practice; also, to report failures on the part of dealers in coffins to report all sales of coffins made by them. (8) In case of a contemplated absence from the county by the County Health Officer, or in case of his disability from any cause of a character so as to interfere with the discharge of his official duties, he shall notify the Chairman of the County Board of Health and the State Health Officer of such condition; and he shall, in writing, name a member of the County Medical Society who is acceptable to the County Board of Health, to act for him during his absence or disability; but his absence or disability shall not be for longer than thirty days, unless he first obtains the approval of the State Health Officer. (9) To be present at all meetings of the County Board of Health for the purpose of keeping that body fully informed as to health conditions prevailing in the county; and to likewise keep the Court of County Commissioners, or other like board, informed on such matters as said board may deem proper. (10) To attend all conferences of county health officers which may be called by the State Health Officer. (11) To discharge such other health functions as are, or may be required of him by law. (12) To occupy an office in the courthouse of the county, to be assigned by the Court of County Commissioners, or other like board; and in the event that an office in the courthouse is not available the same court or board may in its discretion provide an office for him conveniently located with reference to the courthouse; and the Court of County Commissioners, or other like board, may in its discretion appropriate from the revenue of the county such sums as are found necessary to furnish and equip the office of the County Health Officer with all necessary supplies, and furnish all necessary clerical help, transportation, and other expenses of the County Health Officer, and may in its discretion appropriate, from the revenues of the County, money for the prosecution of public health work which has been recommended by the County Health Officer and indorsed by the County Board of Health and approved by said Court of County Commissioners, or other like Board. (13) To

visit, so far as lies in his power, all cases of infectious or contagious diseases that occur in the county, for the purpose of seeing that all proper measures are enforced to prevent their spread, and to repeat these visits from time to time as may be necessary. (14) To make a special effort to locate all cases of tuberculosis and pellagra in the county, especially incipient cases, with a view of not only urging prompt treatment thereof, but also the adoption of such precautions as are deemed necessary to protect others. (15) To inspect the schools of the county at least once annually, with the view of seeing that they are supplied with pure drinking water and surrounded by sanitary conditions in all respects, especially to investigate whether or not said schools are equipped with sanitary closets; further, to examine the pupils of the schools at reasonable intervals for the purpose of ascertaining any defects of sight or of hearing that may exist, or of ascertaining the presence of adenoids, enlarged tonsils, skin diseases, spinal curvature, hookworm disease, etc., that may interfere with progress in their studies; and, whenever any of the above named diseases or defects are discovered, the County Health Officer shall so notify the parents of the child affected. (16) To teach the proprietors of slaughter houses, dairies, grocery houses, hotels, lunch stands, etc., the importance of protecting all food products from dust and insets of every kind, and to require the proper protection of food products by glass cases, screens, or other devices approved by the County Board of Health, and to impress upon the people of the county the importance of similar protection in their own homes. (17) To teach the people of the county by lectures, newspaper articles, and demonstrations, the causes, modes of propagation and of prevention of diseases, with special reference to the spread of disease by flies, mosquitoes, rats, fleas, ticks, and other vermin; also, the importance of screening their houses against these purveyors of disease. (18) To teach the people of the county how to maintain sanitary conditions in and around their homes, especially how to supply themselves with pure drinking water and pure milk, and also how to provide sanitary closets. (19) To attend meetings of the Court of County Commissioners or Board of Revenue from time to time, or whenever so requested, for the purpose of giving said court or board all desired information as respects the public health interests of the county. (20) To prepare and file for permanent record with the court of county commissioners, or like body, an annual statement of receipts and disbursements of his unit. Said statement may be reasonably condensed but shall be sworn to, shall be open to public inspection at all times and shall reveal the salary and or other compensation of the county health officer and all other persons paid from funds of the unit, each listed separately. The statement shall set out the amounts received by the unit from each source of its

revenue and shall be filed within not more than ninety days following the close of the unit's fiscal year, and said statement shall be spread upon the minutes of the said commissioners, or like body.

Section 1063. COUNTY QUARANTINE OFFICERS PROVIDED FOR. There shall be in each county, having no health officer, a County Quarantine Officer, who shall be a licensed physician, and who shall be appointed by the State Committee of Public Health on the recommendation of the County Board of Health, whose tenure of office shall expire on the election of a County Health Officer; provided, that in no event shall his term of office extend more than three years from the date of his appointment, and provided further that the State Committee of Public Health shall have power to remove a quarantine officer at any time, in its judgment, the public good requires such removal. The salary of the County Quarantine Officer shall be fixed, at not exceeding twenty-five dollars per month, by the Court of County Commissioners, or other like board, and shall be paid in monthly installments from the county treasury, as in the case of other salaries paid by the county. The County Quarantine Officer shall, under the supervision and control of the State Health Officer and County Board of Health, perform all the duties in connection with the isolation, quarantine, and control of cases of infectious and contagious diseases that are required of full-time County Health Officer.

Section 1074. RECORDS AND REPORTS BY COFFIN DEALERS PRESCRIBED. Every person, firm or corporation selling a burial casket, and every person who makes one on a special order, shall keep a record showing the name and post-office address of the purchaser or orderer, the name, sex, color, and age of deceased, and date and place of death of deceased, which record shall be open to inspection of the State Registrar or his accredited representative at all times. On the fifth day of each month the person, firm or corporation selling caskets or making them on special order shall report each sale or making for the preceding month on such form as the State Board of Health shall provide, to the county health officer, or, in counties without county health officers, to the State Registrar; provided, that no person, firm, or corporation, selling caskets to dealers or undertakers only, shall be required to keep such record, nor shall such report be required from undertakers when they have direct charge of the disposition of the body. In case there are no sales or makings of burial caskets, each person, firm, or corporation engaged in the sale or making of them, except as herein provided for, shall report that fact on the fifth day of each month for the preceding month, on such form as the State Board of Health shall provide, to the county health officer; or in counties without county health officers, to the State Registrar. Every person, firm, or corporation selling a casket at retail, and not having charge of the disposition of the body, shall enclose within

the casket a notice, furnished by the State Board of Health, calling the attention of the person or persons in charge of the disposition of the body to the requirements of the law; also, a blank certificate of death, and the rules and regulations of the State Board of Health concerning the burial or other disposition of a dead human body. Provided, that each county health officer shall send said coffin dealer's reports for the preceding month to the State Registrar on or before the tenth day of each month.

Section 1081. RECORDS AND REPORTS OF BIRTHS AND DEATHS IN INSTITUTIONS PRESCRIBED. All superintendents, managers, or other persons in charge of hospitals almshouses, lying-in, or other institutions, public or private, to which persons resort for treatment of diseases or confinement, or are committed by process of law, shall forthwith make a record of all the personal and statistical particulars relative to the inmates in their institutions which are required in the forms of the certificate provided by this section, as directed by the State Registrar; and thereafter such record shall be by them made for all future inmates at the time of their admittance. In the case of persons admitted or committed for treatment of disease, the physician in charge shall specify for entry in the record, the nature of the disease, and where, in his opinion, it was contracted. The personal particulars and information required by this section shall be obtained from the individual himself if it is practicable to do so; and, when they cannot be so obtained, they shall be obtained in as complete a manner as possible from relatives, friends, or other persons acquainted with the facts. Furthermore, all superintendents, managers, or other persons in charge of hospitals, almshouses, lying-in, or other institutions, public or private, to which persons resort for treatment of diseases or confinement, or are committed by process of law, shall keep a record of all births, stillbirths, and all deaths within their institutions, and on the fifth day of each month shall report such births, stillbirths, and deaths for the preceding month, on such form as the State Board of Health shall provide, to the County health officer, or in counties without a county health officer, to the State Registrar. If there are no births, stillbirths, or deaths in any month, a report stating that fact shall be made on the fifth day of the following month, on such form as the State Board of Health shall provide, to the county health officer, or, in counties without county health officers, to the State Registrar. Nothing in this section shall be taken to relieve the undertaker or other persons having charge of burial or removal, of his responsibility to file a death certificate in accordance with Section 1073, or the responsibility of physicians or midwives to file birth certificates in accordance with Section 1077. Provided, that each county health officer shall send said report of each birth, stillbirth, and death for the preceding month, of each superintendent, manager, or other person in charge



of hospitals, almshouses and lying-in or other institutions, public or private, to the State Registrar, on or before the tenth day of each month.

Section 1141. PROCEDURE IN CASE OF RESISTANCE TO A HEALTH OFFICER PRESCRIBED. If, in the attempt to perform any duty enjoined by any public health law of the State of Alabama, or rule or regulation of the State Board of Health, the health or quarantine officer of a county, or his duly authorized representative, shall be forcibly resisted, or threatened with forceful resistance, such Health Officer shall, after conference with the County Board of Health, if found necessary, make affidavit before the judge of any court of record, the Judge of Probate, or any Justice of the Peace of said county, that said forceful resistance has been made, or threatened; whereupon, the officer before whom said affidavit has been made shall forthwith issue his warrant directed to the sheriff, or to any bonded constable of said county, commanding said sheriff, or constable, to remove or abate, under the direction of said Health Officer, said insanitary condition, or source of infection or offensive or indecent material or thing, or to remove said afflicted person; and it shall be the duty of said sheriff, or constable, to whom said warrant shall be delivered, to promptly execute the same. In executing every such warrant, the said sheriff, or constable, shall have the right to enter by force into any such lot, piece of ground, house, or vessel, or upon such pond, lake or stream.

Section 1146. STATE COMMITTEE OF PUBLIC HEALTH REQUIRED TO PROMULGATE AND ENFORCE RULES FOR THE OPERATION OF FOOD-HANDLING ESTABLISHMENTS. The State Committee of Public Health shall adopt and promulgate regulations for the construction, maintenance, and operation of all establishments, and their immediate surroundings, in which foods or beverages intended for human consumption are made, prepared, processed, displayed for sale, or served, and for the construction, maintenance and operation of hotels, tourist camps, recreation camps, or any places where sleeping accommodations for transients, tourists, or vacationists are advertised for hire, as well as of construction camps, and their surroundings. Copies of the said regulations shall be furnished to county health departments, whereupon, it shall be the duty of said county health departments to enforce such regulations within their respective jurisdictions. This section shall not restrict the power of county boards of health, or of municipal corporations, to adopt more stringent, or emergency, regulations or ordinances, respectively. County health officers are hereby authorized and empowered to close any establishment in which foods or beverages intended for human consumption are made, prepared, processed, displayed for sale, or served, in case of flagrant or continued violation of any of the aforesaid

regulations. When such action is taken an official notice to that effect shall be posted on the main entrance of the said establishment, and it shall be unlawful to operate such closed establishment until the closing order has been formally revoked or vacated. Provided: That proprietors of establishments so closed shall have the right of appeal to the county board of health. In event such an appeal is made, the County board of health shall promptly investigate, and affirm or revoke the closing order. County health officers, or their delegated representatives, are hereby authorized to enter any establishment affected by this section at any time, for purposes of inspection, and are further authorized to score or grade establishments or the products of the same, and to publicly announce such scores or grades. It shall be unlawful to publish, or in any manner advertise, a score or grade which has not been officially awarded, or which has been revoked, or to hinder a health officer or his representative in the performance of his duty. Whenever the State Health Officer officially advises a judge of probate and/or a municipal corporation that he is in position to enforce the regulations authorized in this section in any county and municipality, it shall be unlawful thereafter for the judge of probate or the city clerk of the said municipality to issue a privilege license for the operation of any establishment in which any food or beverage is made, prepared, processed, displayed for sale, or served, unless the applicant for the said license presents a permit for its operation from the county health officer. In the absence of a county health department, or in event the county health officer requests assistance, or, if in the discretion of the State Committee of Public Health and the State Health Officer, special circumstances make it advisable to take the enforcement of the regulations authorized by this section out of the hands of any county board of health and county health officer, the State Health Officer is hereby authorized to enforce the said regulations.

Section 2051. PRIVIES, WATER CLOSETS, SEPTIC TANKS AND CONNECTIONS WITH SEWERAGE. To regulate privies, water closets, and septic tanks, and the construction thereof, and to compel the installation of same, and the connection of such water closets with such septic tanks, or with the sewerage system of the city or town; and, in case of failure to install or connect after reasonable notice, then the city or town may install proper privies, water closets, or septic tanks, as it deems advisable, and connect such water closets with such septic tanks or with the sewerage system of the city or town, the expense of same to be assessed against the property, and the cost thereof to be a lien upon the property in favor of the city or town, superior to all other liens, to be collected as other debts are collected or liens enforced. When privies, water closets, or septic tanks are installed and connections

made by the city or town under the provisions of this section, the Mayor of such city or town shall prepare a statement, in writing, setting forth the name of the owner, and a description of the property upon which the improvements have been made, together with the cost of the installation of such privies, water closets, or septic tanks, and sanitary connections, which must be signed by the mayor in his official capacity and filed with the Probate Judge in the county in which such property is situated, for record in the mortgage records of the county. The filing of such statement shall operate as notice of such lien from the date of its filing.

Approved September 13, 1935.

No. 444)

(S. 248—Kelly.

### AN ACT

To amend Sections 1048, 1050, 1052, 1055, 1061, 1064, 1067, 1068, 1069, 1070, 1072, 1076, 1077, 1078, 1079, 1082, 1085, 1092, 1093, 1096, 1103, 1104, 1105, 1108, 1114, 1118, 1119, 1120, 1124, 1125, 1127, 1128, 1129, 1130, 1131, 1132, 1133, 1139, 1140, 1143, 1144, 1145, 1148, 1158, 1199, 1205, 1219, 4377, 4464, 4465, 4466, 4468, 4469, 4470, 4472, 4473, 4477, and 4478, of the Code of Alabama of 1923, all relating to the public health of Alabama.

*Be it enacted by the Legislature of Alabama:*

That Sections 1048, 1050, 1052, 1055, 1061, 1064, 1067, 1068, 1069, 1070, 1072, 1076, 1077, 1078, 1079, 1082, 1085, 1092, 1093, 1096, 1103, 1104, 1105, 1108, 1114, 1118, 1119, 1120, 1124, 1125, 1127, 1128, 1129, 1130, 1131, 1132, 1133, 1139, 1140, 1143, 1144, 1145, 1148, 1158, 1199, 1205, 1219, 4377, 4464, 4465, 4466, 4468, 4469, 4470, 4472, 4473, 4477, and 4478 of the Code of Alabama of 1923, be amended to read respectively as follows:

Section 1048. REPRESENTATION OF THE STATE BOARD OF HEALTH FIXED. When the State Board of Health is not in session said State Committee of Public Health shall act for said Board, and have and discharge all the prerogatives and duties of said Board, including the adoption and promulgation of rules and regulations provided for in this chapter. When said Committee is not in session the State Health Officer, as the executive officer of the State Department of Health, shall act for said Board and said Committee, and shall report his actions to the said Board and said Committee, at their next regular respective meetings, for confirmation or modification.

Section 1050. SOLE CONTROL OF PUBLIC HEALTH VESTED IN STATE AND COUNTY BOARDS OF HEALTH. No local board of health, or other executive body for the exercise of public health functions, other than the County Board of Health,

shall be established or exist in any county or municipality. Nor shall any municipality have a municipal health officer or other like officer. Nor shall any board, body, or organization, or any official or person, acting or claiming to be under any Federal authority or acting without claim of Federal or State authority, engage in any public health work, except under the supervision and control of the State Board of Health.

Section 1052. **AUTHORITY AND JURISDICTION OF COUNTY BOARDS OF HEALTH DEFINED.** It shall be the duty of the County Boards of Health in their respective counties and subject to the supervision and control of the State Board of Health—(1) To supervise the enforcement of the health laws of the State, including all ordinances or rules and regulations of municipalities or of county boards of health or of the State Board of Health; and to supervise the enforcement of the law for the collection of vital and mortuary statistics, and to adopt and promulgate, if necessary, rules and regulations for administering the health laws of the State and the rules and regulations of the State Board of Health, which rules and regulations of the County Boards of Health shall have the force and effect of law and shall be executed and enforced by the same bodies, officials, agents, and employees as in the case of health laws. (2) To investigate through county health officers or quarantine officers, cases or outbreaks of any of the diseases enumerated or referred to in Section 1092 of this Code and to enforce such measures for the prevention, or extermination, of said diseases as are authorized by law. (3) To investigate through county health officers or quarantine officers all nuisances to public health, and through said officers to take proper steps for the abatement of such nuisances. (4) To exercise, through county health officers or quarantine officers, special supervision over the sanitary conditions of schools, hospitals, asylums, jails, almshouses, theatres, opera houses, court houses, churches, public halls, prisons, markets, dairies, milk depots, slaughter pens or houses, railroad depots, railroad cars, dining cars, street railroad cars, lines of railroads and street railroads (including the territory contiguous to said lines), industrial and manufacturing establishments, offices, stores, banks, club houses, hotels, rooming houses, residences, the sources of supply, tanks, reservoirs, pumping stations, and avenues of conveyance of drinking water, and other institutions and places of like character; and whenever insanitary conditions are found, to use all legal means to have the same abated. (5) To elect a county health officer, subject to the approval of the State Committee of Public Health, who shall devote all of his time to the duties of his office, and to fix his term of office at not less than three years, in such counties of the State as shall, through their proper authorities, make appropriations for full-time public health service. No county

health officer elect shall assume office until his election shall have been approved by the State Committee of Public Health, and if such Committee refuses to approve his election, another county health officer shall be forthwith elected. The jurisdiction of such officer shall extend to all parts of the County, including all incorporated municipalities; and should the health officer so elected neglect or fail faithfully to perform any of the duties which are lawfully prescribed for him, or if he fails or refuses to observe or conform to the rules, regulations, or policies of the State Board of Health, the State Health Officer shall remove said County Health Officer from office; and when any County Health Officer shall be so removed he shall have the right to appeal to the State Committee of Public Health, and when such appeal has been taken said Committee shall investigate fully the causes for which he was removed from office. If six members of said Committee vote to affirm the action of said State Health Officer, then his action shall be affirmed; otherwise, it shall be reversed. (6) Whenever two or more counties, acting through their respective Courts of County Commissioners or Boards of Revenue, as the case may be, shall agree to appropriate proportionately from the funds of their respective counties a sufficient sum to provide a district health department, then the County Boards of Health of these respective counties shall meet in joint session and elect a full-time health officer, and fix his term of office at not less than three years. The full-time health officer shall devote all of his time to the duties of his office in the district for which he is elected. No full-time health officer elected under the authority of this subsection, shall assume office until his election shall have been approved by the State Committee of Public Health, and if such Committee refuses to approve his election, another district health officer shall forthwith be elected. The jurisdiction of such officer shall extend to all parts of each county in the district, including all incorporated municipalities in the several counties composing such district; and he shall be subject to removal as provided in sub-section 5, next preceding. The salary of district health officers shall be fixed in the same manner as those of county health officers. Wherever the term "county health officer" occurs in this chapter, it shall be construed as applying likewise to district health officers.

Section 1055. **POWERS OF COUNTY HEALTH OFFICERS DEFINED.** The County Health Officer, elected as provided in Section 1052 of the Code, shall devote all of his time to official work, and shall under no circumstances engage in private practice. He shall, under the direction of the State Health Officer and the County Board of Health, have sole direction of all sanitary and public health work within the county, including incorporated

municipalities, and shall employ for his assistants, subject to the approval of the County Board of Health, such number of physicians, nurses, clerks, inspectors, and other employees as are found necessary to accomplish the work. The County Health Officer may remove from office any assistant or employee.

Section 1061. BOND OF COUNTY HEALTH OFFICERS PRESCRIBED. The Health Officer of a county shall enter into bond, with sufficient sureties, payable to the State Health Officer and the Judge of Probate of the County in a sum equal to the amount of his annual salary, with condition for the faithful performance of all such duties as are or may be required of him by law.

Section 1064. PRACTICE OF MIDWIFERY REGULATED. (1) It shall be unlawful, for any person, other than a regularly licensed physician, to practice as a midwife without first making written application for and receiving a permit to practice midwifery from the County Board of Health. The term "midwife" shall be construed to include any person, other than a regularly licensed physician, who shall attend, or who shall bargain, contract, or agree to attend, any woman at or during childbirth. Any person violating this Section shall be guilty of a misdemeanor, and upon conviction, upon the first offense, shall be fined not less than Ten Dollars (\$10.00) or imprisonment for not less than one month, and for subsequent offenses shall be fined not less than Fifty Dollars, (\$50.00), nor more than Five Hundred Dollars, (\$500.00), or imprisoned for not less than three months nor more than six months, or both. (2) County Boards of Health shall from time to time, upon written application made in such form and in such manner as may be prescribed by the State Board of Health, either by a schedule of questions to be answered and subscribed, or orally, examine any person of a good moral character and temperate habits who desires to engage in the practice of midwifery, as to his or her qualifications and knowledge of the art; and if a majority of the County Board of Health shall be satisfied that such person is competent to engage in the practice of midwifery, said Board shall enter the name of such person as a registered midwife in a book provided for that purpose, and may at its discretion issue to such person a permit to practice midwifery to be signed by the chairman of said Board, and countersigned by the Health Officer. (3) No permit to practice midwifery shall be issued by a County Board of Health to any person, unless such person shall present to said County Board of Health satisfactory evidence of having or possessing sufficient knowledge and skill in the art of midwifery, and that such person is free from a communicable disease, and of good moral character. The said permit may be revoked by the County Board of Health at any time, after proper investigation

because of failure to comply with the provisions of this chapter, and/or the rules and regulations of the State Board of Health applying to midwifery.

Section 1067. REGISTRATION DISTRICTS DEFINED. For the purposes of this article the State shall be divided into registration districts as follows: Each voting precinct in the State shall constitute a primary registration district; provided, that the State Board of Health may combine two or more primary registration districts, or divide one registration district into two or more primary registration districts, to facilitate registration; and it may establish any State hospital, charitable, or penal institution as a primary registration district.

Section 1068. LOCAL REGISTRARS, DEPUTY-REGISTRARS, AND SUB-REGISTRARS OF VITAL STATISTICS; THEIR APPOINTMENT, TERMS OF OFFICE, AND REMOVAL PROVIDED FOR. In each primary registration district there shall be a local registrar of vital statistics, appointed by the State Board of Health. Each local registrar shall, immediately upon his acceptance of appointment as such, appoint a deputy whose duty it shall be to act in his stead in case of his absence or inability, and such deputy shall in writing accept such appointment, and when acting shall be subject to all laws, rules, and regulations governing local registrars. When it appears necessary for the convenience of the citizens of any registration district, the local registrar is authorized to appoint, with the approval of the State Registrar, one or more suitable persons to act as sub-registrars, who shall be authorized to receive birth, stillbirth, and death certificates and to issue burial or removal permits in and for such portions of the registration district as may be designated, and each such sub-registrar shall note on each certificate, over his signature, the date of filing, and shall forward all certificates to the local registrar of the district within three days, and in all cases before the third day of the following month; provided, however, that each such sub-registrar shall be subject to the supervision and control of the State Registrar. The term of office of a local registrar of vital statistics so appointed shall be four years; provided, that each local registrar shall hold office until his successor shall have been qualified and appointed, unless such office shall become vacant by death, disqualification, operation of law, or other cause. Each local registrar and deputy registrar shall notify the State Board of Health of his intent to resign at least ten days before any resignation shall take effect or his term expires, whereupon his successor shall be appointed. Qualifications of local registrars, deputy registrars, and sub-registrars of vital statistics hereafter appointed shall be prescribed by the State Board of Health; provided, that no licensed embalmer or undertaker, and no person

employed in the business of embalming, undertaking, or making or selling caskets, shall be eligible for appointment as a local registrar, deputy registrar, or sub-registrar. A county health officer shall be eligible for appointment as a local registrar of vital statistics; but, if so appointed, he shall serve without additional remuneration therefor. In each primary registration district consisting of a State hospital, charitable, or penal institution, the local registrar shall be the superintendent, warden, or person in charge; provided, however, that he shall receive no additional remuneration for serving as such local registrar. Any local registrar, deputy registrar, or sub-registrar of vital statistics, who fails or neglects to discharge efficiently the duties of his office, as set forth in this Article, or by the rules and regulations of the State Board of Health, shall be forthwith removed by the State Board of Health and such penalties may be imposed as are provided by this Article.

**Section 1069. PERMITS FOR BURIAL OR REMOVAL OF DEAD BODIES PRESCRIBED.** No dead human body shall be buried, cremated, or otherwise disposed of, or removed from or into any registration district, or be temporarily held pending further disposition more than seventy-two hours after death, unless a permit for burial, removal, or other disposition thereof shall have been properly issued by the local registrar of the registration district in which the death occurred, or in which the body was found. And no such burial or removal permit shall be issued by a local registrar until, wherever practicable, a complete and satisfactory certificate of death has been filed with him, as herein provided. In sparsely settled districts to be designated by the State Registrar of Vital Statistics, or when it is impracticable to file a death certificate, a local registrar may issue a burial or removal permit without a death certificate, if a responsible person assumes the obligation to file a satisfactory death certificate within ten days from the date upon which application was made for burial or removal permit; provided, that in no case shall a certificate be filed later than the fifth day of each month for such deaths occurring in the preceding month. When any such body is transported from outside the State into a registration district in Alabama for burial, the transit or removal permit issued in accordance with the law and health regulations of the place where the death occurred shall be accepted by the local registrar of the district into which such body has been transported for burial or other disposition, as a basis upon which he may issue a burial permit; and he shall note upon the face of the burial permit the fact that it is a body shipped in for interment, and shall give the actual place of death. Provided, however, that the State Board of Health shall have power to promulgate rules with reference to the removal of bodies of persons whose deaths occur on trains, boats, or other



carriers engaged in the transportation of persons within this State. No local registrar shall receive any fee for the issuance of burial or removal permits. The local registrar shall file permanently in his office, as a local record, the permit for each burial or cremation.

**Section 1070. REGISTRATION OF STILLBORN CHILDREN PRESCRIBED.** A stillborn child shall be registered as a birth and also as a death; provided, that a certificate shall not be required for a child that has not advanced to the fifth month of uterogestation. The State Board of Health shall furnish a combined birth and death certificate form for the recording of stillbirths, to be used instead of separate birth and death certificates. The medical certificate of the cause of death shall be signed by the attending physician, if any, and shall state the cause of death as "stillborn", with the cause of the stillbirth, if known, whether a premature birth, and, if born prematurely, the period of uterogestation in months, if known; and a burial or removal permit of the prescribed form shall be required. Midwives shall not sign certificates of death for stillborn children; but such cases, and stillbirths occurring without attendance of either physician or midwife, shall be treated as deaths without medical attendance as provided in Section 1072.

**Section 1072. REGISTRATION OF DEATHS OCCURRING WITHOUT MEDICAL ATTENDANCE PRESCRIBED.** In case of any death occurring without medical attendance, it shall be the duty of the undertaker, or other person to whose knowledge the death may come, to notify the local registrar of such death, and when so notified the local registrar shall, prior to the issuance of a burial permit, inform the county health officer, who shall immediately investigate and certify as to the cause of death; provided, that if the health officer has reason to believe that the death may have been due to an unlawful act or neglect, he shall then refer the case to the coroner or other proper officer for his investigation and certification. The coroner, or other proper officer whose duty it is to hold an inquest on the body of the deceased person and to make the certificate of death required for a burial permit, shall state in his certificate the name of the disease causing death, or if from external causes, the means of death; whether probably accidental, suicidal or homicidal; and shall, in any case, furnish such information as may be required by the State Registrar in order to properly classify the death. When there is no county health officer, and when there is no reason to believe the death to be due to an unlawful act or neglect, in such cases only, the local registrar is authorized to complete the certificate from the statement of relatives or other persons having adequate knowledge of the facts; provided, that when there is reason to believe

the death due to an unlawful act or neglect, and there is no county health officer, the local registrar shall notify the coroner or other proper officer for his investigation and certification.

**Section 1076. DUTIES OF SEXTONS, AND OF UNDERTAKERS IN CERTAIN CIRCUMSTANCES, PRESCRIBED.** No person in charge of any premises on which interments are made shall inter or permit the interment of, or other disposition of, any human body, unless it is accompanied by a burial, removal, or transit permit, as herein provided. And such person shall endorse upon the said burial permit the date of interment, over his signature, and shall return all permits so endorsed to the local registrar of the registration district in which the place of interment is located within five days from the date of the interment, or within the time fixed by local ordinances. He shall keep a record of all bodies interred, or otherwise disposed of, on the premises under his charge, in each case stating the name of each deceased person, place of death, date of burial or disposal, and name and address of the undertaker; which record shall at all times be open to official inspection. The undertaker or person acting as such, when burying a body in a cemetery or burial ground having no person in charge, shall sign the burial or removal permit, giving the date of burial, and shall write across the face of the permit the words "No person in charge," and file the burial or removal permit within five days with the registrar of the registration district in which the place of interment is located.

**Section 1077. REGISTRATION OF BIRTHS PRESCRIBED.** The birth of each child born in this State shall be registered as hereinafter provided. Within five days after the date of a birth there shall be filed with the local registrar of the registration district in which the birth occurred a certificate of such birth, which certificate shall be upon the form adopted by the State Board of Health, with a view to procuring a full and accurate report with respect to each item of information that may be required under the succeeding section. In each case where a physician, midwife, or person acting as midwife, was in attendance upon the birth, such physician, midwife, or person acting as midwife, shall file said certificate in accordance herewith. In each case where there was no physician or midwife in attendance upon the birth, the father or mother of the child, the householder or owner of the premises where the birth occurred, or the manager or superintendent of the public or private institution where the birth occurred, each in the order named, within five days after the date of such birth, shall report to the local registrar the fact of such birth. In such case and in case the physician, midwife, or other person reporting said birth is unable, by diligent inquiry, to obtain any item or items of information contemplated by the succeeding section, the local

registrar shall secure from the person so reporting, or from any other person having the required knowledge, such information as will enable him to prepare the certificate of birth herein contemplated, and the person reporting the birth, or who may be interrogated in relation thereto, shall answer correctly and to the best of his knowledge all questions put to him by the local registrar, which may be calculated to elicit any information needed to make a complete record of the birth as contemplated by the succeeding section; and the informant as to any statement made in accordance herewith shall verify such statement by his signature when requested so to do by the local registrar. A receipt for a certificate filed shall be issued to any physician, midwife, or head of a household by the local registrar upon demand. The absence of a certificate of birth of any child from the files of the State Registrar shall be prima facie evidence that a certificate for said birth was not filed.

**Section 1078. FORM AND MANNER OF PREPARING BIRTH CERTIFICATES PRESCRIBED.** The certificate of birth shall contain such information and in such form as the State Board of Health may prescribe. The personal particulars called for shall be given, together with the name of the informant. If the child dies without a given name, the words "Died Unnamed" shall be entered in the space provided for the name. If the living child has not yet been named at the date of filing the certificate of birth, the space for the given name of the child shall be left blank, to be filled out subsequently by a supplemental report, as hereinafter provided in Section 1079. If the child is illegitimate, the name of the putative father shall not be entered without his consent, but the other particulars relating to the putative father may be entered if known, otherwise as "unknown". The certificate shall be signed by the attending physician or midwife with date of signature, and address; if there was no physician or midwife in attendance, then by the father or mother of the child, householder, owner of the premises, manager or superintendent of public or private institution where the birth occurred, or other competent person whose duty it shall be to notify the local registrar of such birth. The local registrar shall enter the exact date of filing of the certificate in his office, and the registered number of the birth attested by his official signature.

**Section 1079. REGISTRATION OF NAME OF CHILD SUBSEQUENT TO FILING OF BIRTH CERTIFICATE PROVIDED FOR.** When any certificate of birth of a living child is presented without the statement of the given name, then the local registrar shall make out and deliver to the parents of the child a special blank for the supplemental report of the given name of the child, which shall be filled out as directed, and returned to the

local registrar as soon as the child shall have been named. The local registrar shall on the fifth day of each month in counties in which there is a county health department, and on the tenth of the month in all other counties, inclose in his regular monthly report to the State Registrar all such supplementary reports of given names received by him. The State Registrar shall enter on the original certificate the given name as supplied on the supplemental report.

**Section 1082. PROVISION OF BLANKS, ISSUE OF INSTRUCTIONS, EXAMINATION OF CERTIFICATES, AND SECURING OF ADDITIONAL INFORMATION BY THE STATE REGISTRAR, TO COMPLETE THE RECORDS, PRESCRIBED.** The State Registrar shall, under the supervision of the State Board of Health, prepare, print, and supply to local registrars all blanks and forms used in registering, recording, and preserving the returns, or in otherwise carrying out the purposes of this Article, and shall prepare and issue such detailed instructions as may be required to procure the uniform observance of its provisions and the maintenance of a perfect system of registration; and no other blanks shall be used than those supplied by the State Registrar. He shall carefully examine the certificates received monthly from the local registrars, and if any such are incomplete or unsatisfactory he shall require such further information to be supplied as may be necessary to make the record complete and satisfactory, and all physicians, midwives, informants, undertakers, and all other persons having knowledge of the facts, shall supply, upon a form provided by the State Registrar, or upon the original certificate, such information as they may possess regarding any birth or death, upon demand of the State Registrar, in person, by mail, or through the local registrar; but no certificate of birth or death, after its acceptance for registration by the local registrar, and no other record made in pursuance of this section, shall be altered or changed in any respect otherwise than by amendment properly dated, signed, and witnessed. The State Board of Health shall arrange, bind, and permanently preserve the certificates in a systematic manner, and shall prepare and maintain a comprehensive and continuous typewritten or printed index of all births and deaths registered; said index to be arranged alphabetically or by some equally satisfactory system; in the case of deaths by the name of the decedent; and in the case of births by the name of the father or if born out of wedlock, by the name of the mother.

**Section 1085. DISTRIBUTION OF BLANKS, EXAMINATION OF CERTIFICATES, AND THE MAKING OF COPIES FOR COUNTY RECORDS BY LOCAL REGISTRARS PRESCRIBED.** Each local registrar shall supply blank forms of certificates to such persons as require them. All certificates and per-

mits shall be typed or written legibly, in durable black ink, and no certificate shall be held to be complete and correct that does not supply all of the items of information called for thereon, or satisfactorily account for their omission. The local registrar shall carefully examine each certificate of birth or death when presented for record, in order to ascertain whether or not it has been made out in accordance with the provisions of this Article and the instructions of the State Registrar, and whether the cause of death was an infectious, contagious, or communicable disease. If a certificate of birth is incomplete, he shall immediately notify the informant and require him to supply the missing items of information, if they can be obtained. If a certificate of death is incomplete or unsatisfactory, he shall call attention to the defects in the same, and shall withhold a burial or removal permit until such defects are corrected. In case the cause of death stated on a certificate of death is a disease held by the State Board of Health to be infectious, contagious, or communicable, and dangerous to the public health, no permit for the removal or other disposition of the body shall be issued by the registrar, except under such conditions as may be prescribed by the State Board of Health. The State Registrar shall furnish all local registrars with a list of the diseases which are considered infectious, contagious, or communicable, and dangerous to public health, as decided by the State Board of Health; and when a certificate of a death caused by such a disease is presented to him the local registrar shall forthwith report the same to the county health officer or the county quarantine officer, on a form to be provided for that purpose by the State Registrar. The local registrar shall number consecutively the certificates of birth, stillbirth, and of death, in three separate series beginning with number one for the first birth, number one for the first stillbirth, and number one for the first death in each calendar year, and shall sign his name as local registrar in attest of the date of filing in his office. He shall also make a complete and accurate copy of each birth certificate, stillbirth certificate, and of each death certificate registered by him, in a record book supplied by the State Registrar. When any such record book of births, stillbirths, or deaths is filled, the local registrar shall deliver the same to the Probate Judge of the county, and the said judge shall cause such books to be properly labeled and indexed, so as to constitute permanent local records of births, stillbirths, and deaths. The registrar shall file permanently, in his office, the permit for each burial or cremation in his district, in such manner as may be directed by the State Board of Health. On the tenth day of each month the local registrar shall, except in registration districts located in a county having a county health department and the State Board of Health shall have otherwise ordered, transmit to the State

Registrar all original certificates registered by him for the preceding month, and also any delayed certificates registered by him during the month. If no births, stillbirths, or deaths occurred in any month, the local registrar shall, on the tenth day of the following month, except in registration districts which are located in a county having a county health department and the State Board of Health shall have otherwise ordered, report that fact to the State Registrar on a card provided for that purpose. When the State Board of Health shall have so ordered, each local registrar shall transmit forthwith to the county health officer, as soon as copied, all original birth, stillbirth and death certificates which have been registered in such primary registration district. Each county health officer shall, on the tenth day of each month, transmit to the State Registrar all original certificates and reports received from local registrars in his county for the preceding month, together with any delayed certificates and reports received by him during the month.

Section 1092. NOTIFIABLE DISEASES LISTED. The following diseases and disabilities are hereby made and declared to be notifiable diseases, and occurrence of cases shall be reported as herein provided; Group A. Infectious diseases, viz., actinomycosis, anthrax, chancroid, chickenpox, cholera (Asiatic, also cholera nostras when Asiatic cholera is present or its importation threatened), dengue, diphtheria, dysentery (amebic), dysentery (bacillary), epidemic influenza, favis, German measles, glanders, gonorrhea, granuloma venereum, leprosy, lethargic encephalitis, lymphogranuloma inguinale, malaria, measles, meningitis (epidemic cerebrospinal), meningitis (tuberculos), mumps, ophthalmia neonatorum (conjunctivitis of new-born infants), paragonimiasis (endemic hemoptysis), para-typhoid fever, plague, pneumonia (acute), poliomyelitis (acute infectious), rabies, Rocky Mountain spotted or tick fever, scarlet fever, septic sore throat, smallpox, syphilis, tetanus, trachoma, trichinosis, tuberculosis (all forms, the organ or part affected in each case to be specified), tularemia, typhoid fever, typhus fever, undulant fever, whooping cough, and yellow fever. Group B. Occupational diseases and injuries, viz., arsenic poisoning, brass poisoning, carbon monoxide poisoning, lead poisoning, mercury poisoning, natural gas poisoning, phosphorous poisoning, wood alcohol poisoning, naphtha poisoning, bisulphide of carbon poisoning, dinitrobenzine poisoning, caisson disease (compressed air illness), any other disease or disability of the nature of the person's employment. Group C. Diseases due to diet deficiency, viz., pellagra, scurvy. Group D. Such other diseases as the State Board of Health may from time to time in its discretion declare to be notifiable diseases.

Section 1093. PHYSICIANS REQUIRED TO REPORT

**CASES OF NOTIFIABLE DISEASES: PROCEDURE IN OUTBREAKS OF SMALLPOX, TYPHOID AND SCARLET FEVER, DIPHTHERIA, AND SEPTIC SORE THROAT PRESCRIBED.** Each physician practicing in the State of Alabama who treats or examines any person having, or suspected of having, any notifiable disease, shall immediately report such cases of notifiable disease in the most expeditious manner possible, whether by telephone, telegraph, or special messenger, and within five days thereafter in writing, to the County Health Officer. Said written report shall be upon such forms, and shall contain such matter, as may be provided for from time to time by the rules and regulations of the State Board of Health. Whenever the disease is smallpox, or suspected of being smallpox, it shall be unlawful for any person who has been exposed to infection therefrom and who has not been successfully vaccinated within five years to appear in any public place or any place other than his own home until after he is successfully vaccinated, and it shall be the duty of the County Health Officer to isolate in their own homes all persons who have been exposed to infection from another person infected with smallpox until they have been successfully vaccinated. In the event of an outbreak in any community it shall be unlawful for any person who has not been successfully vaccinated to be found in any public place or in any place other than his own home, and the State Health Officer shall have such person isolated and confined in his own home until he is successfully vaccinated. If the disease is, or is suspected to be, typhoid fever, scarlet fever, diphtheria or septic sore throat, the report shall also show whether the patient has been, or any member of the household in which the patient resides, is, engaged or employed in the handling of milk for sale or preliminary to sale.

**Section 1096. TEACHERS REQUIRED TO REPORT SUSPECTED CASES OF COMMUNICABLE DISEASE.** Teachers or other persons employed in, or in charge of public, or private schools shall report immediately to the County Health Officer or State Health Officer, such known or suspected cases of notifiable disease in persons attending or employed in their respective schools.

**Section 1103. VENEREAL DISEASES DECLARED COMMUNICABLE, AND DANGEROUS TO THE PUBLIC HEALTH.** Syphilis, gonorrhea, chancroid, lymphogranuloma inguinale, and granuloma venereum, herein designated venereal diseases, are recognized and declared to be contagious, infectious, communicable diseases, and dangerous to the public health.

**Section 1104. PHYSICIANS AND OTHERS REQUIRED TO REPORT CASES OF VENEREAL DISEASE TO THE COUNTY HEALTH OFFICER.** Any physician who makes a

diagnosis in, or treats a case of, syphilis, gonorrhea, chancroid, lymphogranuloma inguinale, or granuloma venereum, and the superintendent or manager of a hospital or dispensary or penal or other institution in which there is a case of venereal disease, shall report such case immediately in writing to the County Health Officer, stating the physician's or institution's case number, the age, color, sex, and occupation of such diseased person, the date, as near as it can be arrived at, of the onset of the disease, and the probable source of infection, and the report shall be enclosed in a sealed envelope and sent to the County Health Officer. The name and address of such diseased person shall also be furnished to the Health Officer, as hereinafter specifically required, but not otherwise.

Section 1105. PHYSICIANS REQUIRED TO INSTRUCT VENEREAL DISEASE PATIENTS IN THE PREVENTION OF THE SPREAD, AND IN THE NECESSITY FOR CONTINUED TREATMENT UNTIL CURED. Every physician who examines or treats a person having syphilis, gonorrhea, chancroid, lymphogranuloma inguinale, or granuloma venereum shall instruct such person in measures for preventing the spread of such disease, and the necessity for treatment until cured.

Section 1108. PHYSICIANS REQUIRED TO NOTIFY OTHER PHYSICIANS OF TREATMENTS GIVEN WHEN VENEREAL DISEASE PATIENTS TRANSFER. Whenever a physician treats or examines a case of venereal disease he shall inquire of and ascertain from the diseased person whether such person has theretofore consulted with or been treated by any other physician, and if so, to ascertain the name and address of the physician last theretofore consulted. The diseased person shall furnish this information. The physician, where the diseased person has theretofore received treatment, shall immediately notify by mail the physician theretofore treating such person of the change of physician, such notification to be made upon a form furnished for that purpose by the State Board of Health. Should the physician previously consulted fail to receive such notice within fourteen days after the last appearance or treatment administered by him to such venereally diseased person, such physician shall report to the County Health Officer the name and address of such venereally diseased person.

Section 1114. SUPPRESSION OF PROSTITUTION DECLARED A PUBLIC HEALTH MEASURE, AND PROSTITUTION DECLARED TO BE PRESUMPTIVE EVIDENCE OF VENEREAL DISEASE INFECTION. Prostitution is hereby declared to be a prolific source of syphilis, gonorrhea, chancroid, lymphogranuloma inguinale, and granuloma venereum, and the suppression of prostitution is declared to be a public health meas-



ure. All Health Officers and Quarantine Officers shall co-operate with the proper officials whose duty it is to enforce laws directed against prostitution, and otherwise to use every proper means for the suppression of prostitution. It is further declared that prostitution is presumptive evidence of venereal disease infection; and whenever or wherever apprehended, prostitutes and persons whom the County Health Officer has probable cause to believe to be guilty of habitual fornication shall be examined for said infection by the Health Officer or his assistant before being released from custody.

Section 1118. BARBER, MANICURE, AND BEAUTY SHOP EQUIPMENT PRESCRIBED. The owner and manager of every barber, manicure, and beauty shop shall provide for regular use in the said shop hot and cold water connections, and sewer connections complying with the ordinances of the municipalities in which they are situated. Provided: That in communities and localities in which public water supplies under pressure, and public sewers are not available, an adequate supply of hot water, and waste disposal satisfactory to the county health officer, shall be provided.

Section 1119. SERVICE BY PERSONS SUFFERING FROM SKIN OR VENEREAL DISEASE PROHIBITED. No operator of a barber, manicure, or beauty shop shall permit any person suffering from a communicable skin disease or venereal disease to serve patrons in the said shop. Barbering, manicuring, or beauty culture by any person suffering from a communicable skin disease or venereal disease is hereby prohibited.

Section 1120. BARBER, MANICURE, AND BEAUTY SHOP MANAGERS REQUIRED TO KEEP SHOPS AND ALL EQUIPMENT CLEAN. Every manager of a barber, manicure, or beauty shop shall keep the said shop and all furniture, tools, appliances, and other equipment used therein at all times in a clean and hygienic condition. The use of soiled, greasy, or visibly unclean tools, appliances, combs, brushes, etc., or towels which have not been laundered since last used, is hereby prohibited.

Section 1124. CLEAN HANDS REQUIRED. Every barber, manicurist, and cosmetologist shall cleanse his or her hands thoroughly before serving each patron.

Section 1125. USE OF CERTAIN EQUIPMENT PROHIBITED. The use of alum or other caustic material, except in powdered or liquid form, to stop the flow of blood, and the use of a powder puff or brush, a sponge, or a finger bowl, except it be designed and used for single service, are hereby prohibited.

Section 1127. RENEWAL OF HEADREST COVER PRESCRIBED. The headrest of every barber or beauty shop chair

shall be covered with a clean towel or clean new paper before any patron is served.

Section 1128. SHAVING, MASSAGING, OR TREATMENT OF INFLAMED OR INFECTED SKIN SURFACES PROHIBITED. No barber, manicurist, or cosmetologist shall serve any person whose skin is inflamed, scabby, or contains pus, unless tools, equipment, etc., for his or her individual use are provided.

Section 1129. TREATMENT OF ANY SKIN DISEASE BY A BARBER, MANICURIST, OR COSMETOLOGIST PROHIBITED. The treatment of any skin disease or infection by a barber, manicurist or cosmetologist is hereby prohibited.

Section 1130. USE OF BARBER SHOP OR BEAUTY PARLOR AS A DORMITORY PROHIBITED. No person shall use a barber shop or beauty parlor as a dormitory, nor shall any operator of a barber shop or beauty parlor permit said establishment to be so used.

Section 1131. POSTING OF LAW PRESCRIBED. The operator of every barber shop and beauty parlor shall keep a copy of the sections of this chapter pertaining to barber shops and beauty parlors, to be furnished by the State Health Department, posted in a conspicuous place in said establishment, for the information of patrons and the guidance of persons employed therein.

Section 1132. BARBER, MANICURE, AND BEAUTY SHOPS DEFINED. Any place or establishment in which any one or more of the following named services is regularly performed, for pay, shall be subject to the provisions of the foregoing sections: shaving; beard trimming; cutting, dressing, arranging, curling, waving, shampooing, singeing, bleaching, or dyeing of the hair; application of massages, cosmetics, antiseptics, tonics, lotions, or creams to the skin or scalp; or manicuring, polishing, tinting, or buffing the nails. Places in which such services are performed for pay shall, for purposes of enforcement of this and the foregoing sections, be known as barber, manicure, or beauty shops.

Section 1133. USE OF A COMMON DRINKING CUP OR A COMMON TOWEL, IN CERTAIN PLACES, PROHIBITED. It shall be unlawful to provide for use, or permit the use of, a common drinking cup or a common towel in any hotel, restaurant, railroad car, railroad station, or other place frequented by the public.

Section 1139. PROCEDURE FOR THE REMOVAL OF INFECTED PERSONS NOT IN THEIR OWN HOMES PRESCRIBED. Whenever complaint shall be made in writing to the Health Officer of a County that a person, not at his own home, is afflicted

with any of the diseases named in Section 1092 of this Code, such Health Officer shall thoroughly and promptly investigate said complaint. If, upon investigation said Health Officer is of the opinion that said complaint is well founded, he shall, if his opinion be concurred in by at least one member of the County Board of Health, cause such person to be removed to such place as may have been provided for such cases in the County, city, or town in which such person is found; or if there is no such place provided for such cases, then, to such place as said Health Officer may deem suitable, subject to the approval of the authorities of the county, city, or town, as the case may be. The removal of said person shall be at the expense of said person; or in case the person removed is a minor, then at the expense of his parents or guardian; or if the person be indigent, then at the expense of the town, city or county, as the case may be.

**Section 1140. HEALTH OFFICER AUTHORIZED TO ENTER INFECTED HOUSES FOR DISINFECTION.** Whenever a house or part of a house is believed or known to have become infected by any of the diseases enumerated in Section 1092 of this Code, the Health Officer of the county may enter said house or part of house, or may authorize other persons to enter said house or part of house, one or both, for the purpose of disinfecting it. The disinfection shall be conducted with as little inconvenience to the owner or occupant and with as little damage to the house and to the furniture therein, as is compatible with thoroughness of disinfection.

**Section 1143. NOTIFICATION OF HEALTH OFFICER OF VACATION OF PREMISES BY TUBERCULOUS PATIENT, AND RENOVATION OR DISINFECTION OF SAME BEFORE OCCUPIED, PRESCRIBED.** In case of the vacation of any apartment, building, or premises by death from tuberculosis, or by removal therefrom of a person or persons sick with tuberculosis, the person or physician in charge shall notify the County Health Officer of said removal within twenty-four hours thereafter, and such apartments or premises so vacated shall not again be occupied until renovated and disinfected as herein provided.

**Section 1144. PREMISES VACATED BY TUBERCULOUS PATIENTS REQUIRED TO BE DISINFECTED.** In case of the vacation of any apartments, buildings, or premises, as set forth in the preceding section, the County Health Officer, on receiving the notice above required, shall immediately visit said premises, and shall order and direct that the premises or apartments, and all infected articles therein, be properly and suitably disinfected. In case there shall be no remaining occupants in such premises or apartments, and same shall be vacant, then the County Health Officer shall cause a notice in writing to be served

upon the owner, or agent of the owner, of such premises or apartments, ordering the renovation and disinfection of such premises or apartments, under the direction of and in conformity with the regulations of the County Board of Health.

Section 1145. NOTICE REQUIRED TO BE POSTED ON PREMISES IF DISINFECTION ORDERS ARE DISOBEYED. In case any orders or directions, of the County Health Officer requiring the disinfection of any articles, premises, or apartments, as hereinbefore provided, shall not be complied with within thirty-six hours after such orders or directions shall be given, then the County Health Officer shall cause a placard in words and form as follows, to be placed upon the door of the infected apartment, or premises, to-wit: "Notice. Tuberculosis is a communicable disease. These apartments have been occupied by a tuberculous person and may be infected. They must not be occupied until the order of the Health Officer directing their renovation and disinfection has been complied with." This notice must not be removed under a penalty of law, except by the County Health Officer, or an authorized police officer.

Section 1148. PROMULGATION OF RULES FOR THE TRANSPORTATION OF DEAD BODIES AUTHORIZED. The State Board of Health shall prescribe the rules and regulations under which the bodies of deceased persons may be brought into, or transported through the State; and also the rules and regulations under which such bodies may be transported from one point to another point in the same county, or from one county to another in this State; but the said State Board of Health may, in its discretion, forbid the conveyance of the bodies of persons who have died of infectious, contagious, or communicable diseases into or through this State, or from one county to another in this State. This section shall not be so construed as to prevent County Boards of Health from regulating the transportation of the bodies of deceased persons within their respective county limits.

Section 1158. TREATMENT OF INDIGENT PERSONS BITTEN BY RABID ANIMALS PROVIDED FOR. Any bona fide resident of the State of Alabama, who, or any of whose dependents, has been bitten or otherwise exposed to a rabid animal, and who is financially unable to bear the expense of the administration of the necessary rabies treatment, may have treatment administered by his physician by conforming to the following conditions: He shall furnish to the Circuit Clerk of the County in which he resides good and sufficient proof that he has insufficient income to enable him to pay for the administration of rabies treatment; whereupon, if the Circuit Clerk is satisfied of the indigence of the said applicant, he shall execute an affidavit to that effect, and set up a voucher to cover the cost of treatment, which

shall be in accordance with a sum to be fixed from time to time by the State Committee of Public Health. When such voucher and affidavit have been filed with the State Department of Health, and approved by the State Health Officer and the State Comptroller, payment shall be made from any monies remaining in the Pasteur Fund of the State Treasury, upon a warrant drawn by the State Comptroller.

Section 1199. COUNTY BOARD OF HEALTH REQUIRED TO CONSIDER APPLICATION FOR A PERMIT, AND TO REACH A DECISION. Whenever a County Board of Health receives an application, in accordance with the preceding section, for a permit to locate, establish, or build a hospital, infirmary, or institution of any kind for the care and treatment of sick and wounded persons, said County Board of Health shall promptly and carefully examine the proposed location or locations, considering suitability and environment in all respects; whereupon, the County Board of Health shall, after permitting a full discussion of the matter, either grant or deny the application, giving the person, firm, or corporation interested, written notice of its conclusion.

Section 1205. STATE HEALTH OFFICER, OR HIS REPRESENTATIVE, AUTHORIZED TO INVESTIGATE THE NECESSITY FOR QUARANTINE. The State Health Officer, or any representative designated by him, may go into any place in this State for the purpose of making such investigations as shall determine the necessity for quarantine. Quarantine may be established, pending such investigation, or upon authentic information of the existence of a quarantinable disease at any place from which such disease is likely to invade the State, or any portion thereof.

Section 1219. ESCAPES FROM QUARANTINE. Should a person who has been legally placed in detention by a County Health Officer or quarantine officer attempt to make his escape, such person may be forcibly detained; or, should such person make his escape, complaint, on oath, may be made before the Judge of Probate or a Justice of the Peace by the County Health Officer or quarantine officer, whereupon, such Judge of Probate, or Justice of the Peace, shall issue his warrant authorizing a Sheriff, bonded constable, or other lawful officer to arrest such person and return him to detention.

Section 4377. PENALTY FOR TREATING A CASE OF VENEREAL DISEASE WITHOUT A LICENSE, OR REFILLING A PRESCRIPTION FOR THE TREATMENT OF VENEREAL DISEASE PRESCRIBED. Any person who shall treat or prescribe for any person having syphilis, gonorrhea, chancroid, lymphogranuloma inguinale, or granuloma venereum, except a physician holding a certificate of qualification from the Alabama State Board of Medical Examiners, issued under pre-existing

statute or under any statute that may hereafter be enacted governing the issuance of certificates to practice medicine in this State, or any druggist who shall refill a prescription for such disease, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than ten dollars nor more than one hundred dollars.

Section 4464. **HOTEL DEFINED.** For the purpose of interpreting and enforcing this Chapter, the term "hotel" shall be construed to mean and include any place where sleeping or eating accommodations, or both, are advertised to be available to transients, whether such establishment be known or held to be a hotel, inn, tavern, resort, tourist home, tourist camp, apartment, club, or by other like term, and regardless of the number of rooms, suites, or cabins available. Provided, however, that this term shall not be construed to include apartments, clubs, boarding houses, rooming houses, or portions thereof, where single night accommodations are not advertised.

Section 4465. **DUTIES OF HOTEL OPERATORS PRESCRIBED.** Every owner, manager, or operator of a hotel shall maintain the physical and sanitary condition of the structure, its equipment, water supply, and human waste disposal, and shall conduct the operations thereof, in such manner as to render services and accommodations to travelers in compliance with rules and regulations governing hotels and hotel operation adopted by the State Board of Health.

Section 4466. **STATE HOTEL INSPECTOR EMPOWERED TO CLOSE ANY HOTEL VIOLATING ANY PROVISION OF THE STATE BOARD OF HEALTH REGULATIONS, IF THE PUBLIC HEALTH IS ENDANGERED.** The State Hotel Inspector, or any of his authorized representatives, when acting under his direction, may close any hotel if the owner, manager, or operator thereof has been found guilty of flagrant or continued violation of the State Board of Health rules and regulations governing the operation of hotels; and in such event it shall be his duty to take such action. In case of such closure, it shall be the duty of the Sheriff of the County to enforce said closure until the closing order is revoked in writing.

Section 4468. **ISSUE OF CERTIFICATES OF INSPECTION TO HOTELS PRESCRIBED.** Upon inspecting a hotel, the inspector shall report the condition thereof to the State Hotel Inspector, together with its sanitary score or rating, whereupon, if the score or rating justifies, the State Hotel Inspector shall issue to the operator of the said hotel a certificate of inspection, showing the sanitary score or rating. Said certificate of inspection shall be kept prominently displayed in the hotel for the information of patrons.

**Section 4469. PENALTY FOR THE FAILURE OF A HOTEL KEEPER TO COMPLY WITH THE PROVISIONS OF THIS CHAPTER PRESCRIBED.** The State Hotel Inspector, upon ascertaining by inspection or otherwise, that any hotel is being operated contrary to the rules and regulations of the State Board of Health, shall notify the owner, manager, agent, or person in charge of such hotel, in writing, in what respect it fails to comply with said regulations, and require such person within a reasonable time, to be fixed by the said State Hotel Inspector, to do or cause to be done, the things necessary to make it comply with said regulations, whereupon, such owner, manager, agent, or person in charge of such hotel shall forthwith comply with such requirements. Any owner, manager, or person in charge of a hotel, who shall wilfully fail or neglect to comply with any of the provisions of said rules and regulations of the State Board of Health, after notice as aforesaid, shall be guilty of a misdemeanor, and upon conviction thereof, be fined not less than ten dollars, nor more than fifty dollars, and every day that such hotel is operated in violation of said rules and regulations, shall constitute a separate offense.

**Section 4470. STATE HEALTH OFFICER CONSTITUTED EX-OFFICIO STATE HOTEL INSPECTOR.** The State Health Officer is ex-officio State Hotel Inspector, and the inspectors of the State Board of Health, or that may hereafter be of the State Board of Health, are ex-officio assistant hotel inspectors, and such assistants shall be in the inspection of hotels, as provided for in this chapter, under the exclusive direction and supervision of the State Hotel Inspector.

**Section 4472. HOTEL INSPECTOR VESTED WITH POLICE POWER.** The State Hotel Inspector and his assistants have police power to enter any hotel at reasonable hours, to determine whether the provisions of the rules and regulations of the State Board of Health are being complied with.

**Section 4473. PENALTY FOR OBSTRUCTING OR HINDERING A HOTEL INSPECTOR PRESCRIBED.** Any owner, manager, agent, or person in charge of a hotel, who shall wilfully obstruct or hinder an inspector in the proper discharge of his duties under this chapter, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten dollars nor more than fifty dollars.

**Section 4477. FORMULATION OF REGULATIONS BY STATE BOARD OF HEALTH PRESCRIBED.** The State Committee of Public Health shall make and promulgate reasonable rules and regulations for the purpose of carrying this chapter into effect.

Section 4478. THIS CHAPTER DECLARED TO BE PART OF THE HEALTH LAWS. This Chapter shall operate as, or as a part of, or in conjunction with, any rules and regulations affecting hotels, provided and promulgated by the State Board of Health for maintaining and protecting the public health.

Approved September 13, 1935.

No. 445)

(S. 318—Simpson

### AN ACT

To amend Section 4 of an Act entitled "An Act to declare the necessity of creating public bodies corporate and politic to be known as housing authorities to engage in slum clearance and/or housing projects; to provide for the creation of such housing authorities; to define the powers and duties of such housing authorities and to provide for the exercise of such powers including the borrowing of money, issuance of bonds and other obligations and the giving of security therefor to provide for the payment of such bonds and other obligations with the approval and consent of a Board to be known as the Public Works Board of Alabama; and to provide for the remedies of bond and other obligation holders of such housing authorities," approved February 8, 1935.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 4 of an Act entitled "An Act to declare the necessity of creating public bodies corporate and politic to be known as housing authorities to engage in slum clearance and/or housing projects; to provide for the creation of such housing authorities; to define the powers and duties of such housing authorities and to provide for the exercise of such powers including the borrowing of money, issuance of bonds and other obligations and the giving of security therefor to provide for the payment of such bonds and other obligations with the approval and consent of a Board to be known as the Public Works Board of Alabama; and to provide for the remedies of bond and other obligation holders of such housing authorities," approved February 8, 1935 be amended so that the same shall read as follows: Section 4. NOTICE, HEARING AND CREATION OF AUTHORITY. Any 25 residents of a city or of the area within ten miles from the territorial boundaries thereof may file a petition with the city clerk setting forth that there is a need for an authority to function in the city and said surrounding area. Upon the filing of such a petition the city clerk shall give notice of the time, place and purposes of a public hearing at which the council will determine the need for an authority in the City and said surrounding area. Such notice shall be given at the city's expense by publishing a notice, at least ten days preceding the day on which the hearing is to be held, in a newspaper having a general circulation in the city and



said surrounding area or, if there be no such newspaper, by posting such a notice in at least three public places within the city at least ten days preceding the day on which the hearing is to be held. Upon the date fixed for said hearing held upon notice as provided herein, an opportunity to be heard shall be granted to all residents and taxpayers of the city and said surrounding area and to all other interested persons. After such a hearing, the Council shall determine (1) whether unsanitary or unsafe inhabited dwelling accommodations exist in the city and said surrounding area and/or (2) whether there is a lack of safe or sanitary dwelling accommodations in the city and said surrounding area available for the inhabitants thereof. In determining whether dwelling accommodations are unsafe or unsanitary, the Council shall take into consideration the following: The physical condition and age of the buildings, the degree of overcrowding; the percentage of land coverage; the light and air available to the inhabitants of such dwelling accommodations; the size and arrangement of the rooms; the sanitary facilities; the extent to which conditions exist in such buildings which endanger life or property by fire or other causes. If it shall determine that either or both of the above enumerated conditions exist, the Council shall adopt a resolution so finding (which need not go into any detail other than the mere finding) and shall thereupon appoint, as herein-after provided, five commissioners to act as an authority. Said Commission shall be a public body and a body corporate and politic upon the completion of the taking of the following proceedings: The Commissioners shall present to the Secretary of the State of Alabama an application signed by them, which shall set forth (without any detail other than the mere recital) (1) that a notice has been given and public hearing has been held as aforesaid, that the Council made the aforesaid determination after such hearing, and that the Mayor has appointed them as Commissioners; (2) the name, and official residence of each of the Commissioners, together with a certified copy of the appointment evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire the housing authority to become a public body and a body corporate and politic under this Act; (3) the term of office of each of the Commissioners and the place where, if any, the official appointment of each of said members is kept of record; (4) the name which is proposed for the corporation; (5) the location of the principal office of the proposed corporation; (6) Any other matter relating to the incorporation which the commissioners might choose to insert not inconsistent with the Constitution and laws of the State of Alabama. The application shall be subscribed and sworn to by each of said Commissioners before an officer authorized by the laws of the State of Alabama to take and certify oaths, who shall certify

upon the application that he personally knows the Commissioners and knows them to be the officers as asserted in the application, and that each subscribed and sworn thereto in the officer's presence. The Secretary of State shall examine the application and if he finds that the name proposed for the corporation is not identical with that of a person or of any other corporation of this State or so nearly similar as to lead to confusion and uncertainty he shall receive and file it and shall record it in an appropriate book of record in his office. When the application has been made, filed and recorded as herein provided, the Authority shall constitute a public body and a body corporate and politic under the name proposed in the application; the Secretary of State shall make and issue to the said Commissioners a certificate of incorporation pursuant to this Act, under the seal of the State, and shall record the same with the application. The boundaries of such authority shall include said City and the area within ten miles from the territorial boundaries of said city, but in no event shall it include the whole or a part of any other city having a population of more than ten thousand inhabitants nor any area included within the boundaries of another authority, provided that in any area comprising within its boundaries a city of more than 50,000 inhabitants, according to the last or any subsequent federal census, one additional authority may be set up for each 50,000 of population or major fraction thereof, by which the population of said city exceeds 50,000. In case an area lies within ten miles of the boundaries of more than one city having a population of more than ten thousand inhabitants, such area shall be deemed to be within the boundaries of the authority embracing such area which was first established, all priorities to be determined on the basis of the time of the issuance of the aforesaid certificates by the Secretary of State. If the council, after a hearing as aforesaid, shall determine that neither of the above enumerated conditions exist it shall adopt a resolution denying the petition. After three months shall have expired from the date of the denial of any such petition, subsequent petitions may be filed as aforesaid and new hearings and determinations made thereon. In any suit, action or proceeding involving the validity or enforcement of, or relating to any contract of the authority, the authority shall be conclusively deemed to have been established in accordance with the provisions of this Act upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be admissible in evidence in any such suit, action or proceeding, and shall be conclusive proof of the filing and contents thereof.

Approved September 13, 1935.

No. 446)

(S. 380—Swift.

## AN ACT

To authorize and direct the expenditure from their annual appropriations for research by the University of Alabama and by the Alabama Polytechnic Institute, of a sum not to exceed in the aggregate \$5,000.00 each per annum for four years, such expenditure to be made by the University of Alabama and by the Alabama Polytechnic Institute for the purpose of extending and improving the uses of the naval stores products of the State of Alabama, and for the purpose of increasing its consumption, provided any amount so spent shall be matched by a donation from the Naval Stores Industry.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the University of Alabama and the Alabama Polytechnic Institute are hereby authorized and directed to expend from their annual appropriations for research a sum of not exceeding \$5,000.00 each per annum, for four years, beginning October 1, 1935, the exact amount to be equal to and measured by a donation to be made to said University of Alabama and Alabama Polytechnic Institute by the Naval Stores Industry, represented by the Control Committee of the Gum Turpentine and Gum Rosin Marketing Agreement or by any other duly authorized Committee of such Industry; such expenditure to be made for the purpose of conducting research work in said Universities for the extension and improvement of the uses of naval stores products, provided that no expenditure shall be made unless a like donation is made by the Naval Stores Industry as herein provided.

Section 2. All laws and parts of laws in conflict herewith are hereby repealed.

Section 3. This Act shall be effective as of October 1st, 1935.  
Approved September 13, 1935.

No. 447)

(S. 395—Stephens.

## AN ACT

To create a system of unemployment compensation; to provide for an unemployment compensation fund; to provide for contributions to such fund; to provide for benefit payments from such funds; to provide eligibility conditions for such benefits; to provide for the settlement of benefit claims; to provide for judicial review of disputed benefit claims; to create an Unemployment Compensation Commission and to provide for its appointment, compensation and prescribe its powers and duties; to provide for the appointment and compensation of other employees and the maintenance and other expenses of such Commission; to accept the benefit of an Act of Congress, approved June 6, 1933, entitled "An Act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system and for other purposes"; to provide for the creation of an Alabama State Em-

ployment Service and to prescribe its powers, duties and functions; to authorize reciprocal benefit arrangements with other states or the Federal Government; to prohibit the waiver of rights and benefits arising hereunder; to limit attorney's fees in cases arising under this Act; to regulate alienation of benefits; to provide penalties for failure to comply with or violations of this Act; to establish an Unemployment Administration Fund; to appropriate funds to maintain the same; and to retain the right to amend or repeal this Act.

*Be it enacted by the Legislature of Alabama:*

Section 1. **SHORT TITLE.** This Act shall be known and may be cited as the "Unemployment Compensation Law".

Section 2. **DEFINITIONS.** The following words and phrases, as used in this Act, shall have the following meanings unless the context clearly requires otherwise: (a) "Benefits" means the money payable to an employee as compensation for his wage losses due to unemployment as provided in this Act. (b) "Commission" means the Unemployment Compensation Commission established by this Act, or its authorized representative. (c) "Contributions" means the money payments to the State Unemployment Compensation Fund required by this Act. (d) Eligibility. An employee shall be deemed "eligible" for benefits for any given week of his partial or total unemployment (occurring subsequent to any required waiting period) only when he is not disqualified by any provision of this Act from receiving benefits for such week of unemployment. (e) "Employee" means any person employed by an employer subject to this act and in employment subject to this Act. (f) "Employer" means any person, partnership, association, corporation, whether domestic or foreign, or the legal representative, trustee in bankruptcy, receiver, or trustee thereof, or the legal representative of a deceased person, who or whose agent or predecessor in interest has employed at least eight persons in employment subject to this Act within each of twenty or more calendar weeks in the year 1935 or any subsequent calendar year; provided that such employment in 1935 shall make an employer subject on January 1, 1936, and such employment in any subsequent calendar year shall make a newly subject employer subject for all purposes as of January first of the calendar year in which such employment occurs. In determining whether an employer (of any person in the state) employs enough persons to be an "employer" subject hereto, and in determining for what contributions he is liable hereunder, he shall, whenever he contracts with any contractor or subcontractor for any work which is part of his usual trade, occupation, profession, or business, be deemed to employ all persons employed by such contractor or subcontractor on such work, and he alone shall be liable for the contributions measured by wages paid to such persons for such work; except as any such contractor or subcontractor, who would in the absence of the fore-

going provisions be liable to pay said contributions, accepts exclusive liability for said contributions under an agreement with such employer made pursuant to general commission rules. All persons thus employed by an employer (or any person) within the State, in all of his several places of employment maintained within the state, shall be treated as employed by a single "employer" for the purposes of this Act; provided, moreover, that where any person, partnership, association, corporation, whether domestic or foreign, or the legal representative, trustee in bankruptcy, receiver, or trustee thereof, or the legal representative of a deceased person, either directly or through a holding company or otherwise, has a majority control or ownership of otherwise separate business enterprises employing persons in the state, all such enterprises shall be treated as a single "employer" for the purposes of this Act. Any employer subject to this Act shall cease to be subject hereto only upon a written application by him after a finding by the commission that he has not within any calendar week within the last completed calendar year employed eight or more persons in employment subject hereto. Any employer (of any person within the state) not otherwise subject to this Act shall become fully subject hereto, upon filing by such employer with the commission of his election to become fully subject hereto for not less than two calendar years, subject to written approval of such election by the commission. (g) "Employment" means any employment in which all or the greater part of the person's work (within the continental United States) is or was customarily performed within this State, under any contract of hire, oral or written, express or implied, whether such person was hired and paid directly by the employer or through any other person employed by the employer, provided the employer had actual or constructive knowledge of such contract. Such employment shall include the person's entire employment (in all states, including the District of Columbia). In the case of all other persons employed partly in this state and partly in other states, the commission is authorized, with the approval of the Governor, to enter into reciprocal arrangements with other states as to the extent the employment of such persons shall be included under this definition. The term "employment" shall not apply to: (1) Agricultural labor; (2) Domestic service in a private home; (3) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States; (4) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother; (5) Service performed in the employ of the United States Government or of an instrumentality of the United States; (6) Service performed in the employ of a state, or politi-

cal subdivision thereof, or an instrumentality of one or more states or political subdivisions; (7) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual. (h) "Employment Office" means that free public employment office (operated by the state) or branch thereof nearest to the employee's place of residence or employment, unless otherwise prescribed by the commission. (i) An employee's "full-time weekly wage" means the weekly earnings such employee would average from his employment if employed at the "hourly rate of earnings" and for the "full-time weekly hours" applicable to such employee. (1) The applicable "hourly rate of earnings" shall be determined by averaging the employee's actual earnings for at least three hundred hours of employment by his most recent employers. (2) An employee's "full-time weekly hours" shall mean the standard maximum weekly hours which can lawfully be worked by the employee (in the employment in question) under any code of fair competition or under any applicable state law specifying lower maximum weekly hours or agreement. Where there is no code, law or agreement applicable, the commission shall determine the employee's full-time weekly hours by averaging his weekly hours for all calendar weeks (in at least the past three months) in which he worked thirty hours or more, or by such equitable method as the commission may by general rule prescribe for determining a full-time standard of not less than thirty weekly hours for benefit purposes. In the case of an employee who is found by the commission, at the time he becomes eligible for benefits, to be unable by reason of physical disability or by reason of continuing personal obligations (other than employment) to work half the full-time weekly hours which prevail in such establishment for full-time employees, the commission shall determine his full time weekly hours for benefit purposes by averaging his weekly hours for all weeks (in at least the past three months) in which he worked. (j) "Fund" means the Unemployment Compensation Fund established by this Act, to which all contributions and from which all benefits required under this Act shall be paid. (k) "Partial Unemployment". An employee shall be deemed "partially unemployed" in any calendar week of partial work if he fails to earn in wages (and/or any other pay for personal services, including net earnings from self-employment) for such week at least one dollar more than the amount of weekly benefits for total unemployment he might receive if totally unemployed and eligible. (1) "Payroll" means the total amount of all wages payable by the

employer to his employees, commencing with wages payable for employment occurring after the employer becomes newly subject to this Act. (m) "Total Unemployment". An employee shall be deemed "totally unemployed" in any calendar week in which he performs no wage-earning services whatsoever, and for which he earns no wages (and no other pay for personal services, including net earnings from self-employment), and in which he cannot reasonably return to any self-employment in which he has customarily been engaged. (n) "Unemployment Administration Fund" means the Unemployment Compensation Administration Fund established by this Act. (o) "Wages" means every form of remuneration for employment received by a person from his employer, whether paid directly or indirectly by the employer, including salaries, commissions, bonuses, and the reasonable money value of board, rent, housing, lodging, payments in kind, and similar advantages. (p) "Waiting-period-unit" means a period (for which no benefits are payable but during which the employee is in all other respects eligible) consisting of either one week of total unemployment or two weeks of partial unemployment, required as a condition precedent to the receipt of benefits for subsequent unemployment, as prescribed in this Act. (q) "Week" means calendar week. (r) "Week of employment" means each calendar week (occurring at least one year after contributions first became generally due under this act from employers then subject hereto, and occurring after any probationary period or periods required hereunder) within which the person in question performed any employment subject to this Act for any employer subject to this Act; provided, however, that any week (occurring within the customary school vacation periods) in which an employer employed an employee who attended a school, college or university in the last preceding school term, shall not be counted as a "week of employment" in determining the benefit rights of such employee under this Act.

### Section 3. UNEMPLOYMENT COMPENSATION FUND.

(a) Fund. There is hereby created the Unemployment Compensation Fund, to be administered by the commission without liability on the part of the state beyond the amounts paid into and earned by the fund. This fund shall consist of all contributions and money paid into and received by the fund as provided by this Act, of property and securities acquired by and through the use of moneys belonging to the fund, and of interest earned upon the moneys belonging to the fund. (b) Withdrawals. The fund shall be administered in trust and used solely to pay benefits, upon vouchers drawn on the fund by the commission pursuant to general commission rules and no other disbursement shall be made therefrom. Such rules shall be governed by and consistent with any

applicable constitutional requirements, but the procedure prescribed by such rules shall be deemed to satisfy (and shall be in lieu of) any and all statutory requirements (for specific appropriation or other formal release by state officers of state moneys prior to their expenditure) which might otherwise be applicable to withdrawals from the fund. (c) Treasurer. The Commission shall designate a treasurer of the fund, who shall pay all vouchers duly drawn upon the fund, in such manner as the commission may prescribe. He shall have custody of all moneys belonging to the fund and not otherwise held or deposited or invested pursuant to this act. The treasurer shall give bond conditioned on the faithful performance of his duties as treasurer of the fund, in a form prescribed by statute or approved by the attorney general, and in an amount specified by the commission and approved by the governor. All premiums upon bonds required pursuant to this section when furnished by an authorized surety company or by a duly constituted governmental bonding fund shall be paid from the unemployment administration fund. The treasurer shall deposit and/or invest the fund under the supervision and control of the commission, subject to the provisions of this Act. (d) Deposit. All contributions paid under this Act shall upon collection be deposited in or invested in the obligations of the "Unemployment Trust Fund" of the United States Government or its authorized agent, so long as said trust fund exists, notwithstanding any other statutory provision to the contrary. The commission shall requisition from the Unemployment Trust Fund necessary amounts from time to time.

Section 4. CONTRIBUTIONS. (a) Payment. On and after the first day of January, 1936, contributions shall accrue and become payable by each employer then subject to this act. Thereafter contributions shall accrue and become payable by any new employer on and after the date on which he becomes newly subject to this act. The contributions required hereunder shall be paid by each employer in such manner and at such times as the commission may prescribe. (b) Rates of Contributions. Every employer shall pay contributions equal to the following percentages of the total wages payable (regardless of the time of payment) with respect to employment by him during such month: (1) With respect to employment during the calendar year 1936 the rate shall be ninety-one-hundredths (.90) of one per centum; (2) With respect to employment during the calendar year 1937 the rate shall be one and eighty one-hundredths (1.80) of per centum; (3) With respect to employment during the calendar year 1938 and thereafter the rate shall be two and seventy one-hundredths (2.70) of per centum. (c) Future Rates, Based on Benefit Experience. Based on the actual contribution and benefit experience



of employers under this act, the commission shall (in the year 1941 and in each calendar year thereafter) classify employers in accordance with said experience; and shall determine for each employer the rate of contribution which shall apply to him throughout the calendar year, pursuant to said experience and classification. The minimum contributions thus payable to the fund shall in no case amount to less than one and one-half (1-½%) per centum or more than four (4%) per centum on the employer's payroll, and the average contribution rate of all employers shall be approximately three (3%) per centum (on payroll) for any calendar year. An employer's contribution rate shall in no case be reduced until there has been at least three calendar years throughout which his employees received or could have received benefits when and if unemployed and eligible. The commission shall investigate and classify industries, employers, and/or occupations with respect to the degree of unemployment hazard in each, taking due account of any relevant and measurable factors, and shall have power to apply any form of classification or rating system which in its judgment is best calculated to rate individually the unemployment risk most equitably for each employer or group of employers and to encourage the stabilization of employment. The general basis of classification proposed to be used for any calendar year shall be subject to discussion, adoption and publication in the manner prescribed in this act for all general commission rules. (d) Contributions by Employees. Each employee shall contribute to the fund one per centum of his wages. Each employer shall be responsible for withholding such contribution from the wages of his employees, shall show such deduction on his payroll records, and shall transmit all such contributions to the fund pursuant to general commission rules.

Section 5. BENEFITS (a) Payment of Benefits. After contributions have been due under this act for two years, benefits shall become payable from the fund to any employee who thereafter is or becomes unemployed and eligible for benefits, based on his weeks of employment as defined in this act, and shall be paid through the employment offices at such times and in such manner as the commission may prescribe. (b) Weekly Benefits for Total Unemployment. An employee totally unemployed and eligible in any week shall be paid benefits (computed to the nearest half-dollar) at the rate of fifty per centum of his full-time weekly wage with maximum benefits of \$15.00 per week. (c) Weekly Benefits for Partial Unemployment. An employee partially unemployed and eligible in any week shall be paid sufficient benefits so that his week's wages (and/or any other pay for personal services, including net-earnings from self-employment and his benefits combined will be two dollars more than the weekly

benefit to which he would be entitled if totally unemployed in that week. (d) One-to-Four Ratio of Benefits to Employment. The aggregate amount of benefits an employee may at any time receive shall be limited by the number of his past weeks of employment against which benefits have not yet been charged hereunder. Each employee's benefits shall be thus charged against his earliest weeks of employment available for this purpose. Each employee shall receive benefits in the ratio of one-quarter week of total unemployment benefits (or an equivalent amount, as determined by general commission rules, of benefits for partial unemployment or for partial and total unemployment combined) to each week of employment of such employee occurring within the 104 weeks preceding the close of the employee's most recent week of employment. (e) Maximum Weeks of Benefit in Any Year. Benefits shall be paid each employee for the weeks during which he is totally or partially unemployed and eligible for benefits, based on his past weeks of employment; but not more than sixteen (16) weeks of total unemployment benefits (or an equivalent total amount, as determined by commission rules, of benefits for partial unemployment or for partial and total unemployment combined) shall be paid any employee for his weeks of unemployment occurring within any fifty-two (52) consecutive weeks. (f) Additional Benefits (One-to-Twenty Ratio) An eligible employee who has received the maximum benefits permitted under subsection (e) shall receive additional benefits in the ratio of one week of total unemployment benefit (or its equivalent) to each unit of twenty aggregate weeks of employment occurring within the 260 weeks preceding the close of the employee's most recent week of employment, and against which benefits have not already been charged under this act. Such additional benefits shall be charged against the employee's earliest weeks of employment available for this purpose.

Section 6. BENEFITS ELIGIBILITY CONDITIONS (a) Employment Requirement. An employee shall be deemed eligible for benefits for any given week of his unemployment only if he has either (1) accumulated 40 weeks of employment subject hereto within the 104 weeks immediately preceding the date of his application for benefits, or (2) accumulated 26 weeks of employment subject hereto within the 52 weeks immediately preceding the date of his application for benefits. (b) Availability and Registration for Work. An employee shall not be eligible for benefits in any week of his partial or total unemployment unless in such week he is physically able to work and available for work, whenever duly called for work through the employment office. To prove such availability for work, every employee partially or totally unemployed shall register for work and shall file

claim for benefits at the employment office, within such time limits and with such frequency and in such manner (in person or in writing) as the commission may by general rule prescribe. No employee shall be eligible for benefits for any week in which he fails without good cause to comply with such registration and filing requirements. A copy of the commission's rules covering such requirements shall be furnished by it to each employer who shall inform his employees of the terms thereof when they become unemployed. (c) Waiting Period. Benefits shall be payable to an employee only for his weeks of unemployment occurring subsequent to a "waiting period" whose duration shall in each case be determined as follows: An aggregate of three (3) waiting-period-units shall be required of the employee within the fifty-two (52) weeks preceding the start of any given week of unemployment. There shall not be counted toward an employee's required waiting period or periods any week of total or partial unemployment in which he is ineligible for benefits under subsection (b), (d), (e), (f), (g) of this section. (d) During Trade Disputes. An employee shall not be eligible for benefits for any week in which his total or partial unemployment is directly due to a labor dispute still in active progress in the establishment in which he is or was last employed. (e) Voluntary Leaving. An employee who has left his employment voluntarily without good cause connected with such employment shall be ineligible for benefits for the week in which such leaving occurred and for the three next following weeks. (f) Discharge for Misconduct. An employee who has been discharged for proved misconduct connected with his employment shall thereby become ineligible for benefits for the week in which such discharge occurred and for not less than the three nor more than the six next following weeks, as determined by the commission in each individual case. (g) Refusal of Suitable Employment. If an otherwise eligible employee fails, without good cause either to apply for suitable employment when notified by the employment office, or to accept suitable employment when offered him, he shall thereby become ineligible for benefits for the week in which such failure occurred and for the three next following weeks. "Suitable employment" shall mean any employment for which the employee in question is reasonably fitted, which is located within a reasonable distance of his residence or last employment, and which is not detrimental to his health, safety or morals. No employment shall be deemed suitable, and benefits shall not be denied under this act to any otherwise eligible employee for refusing to accept new work, under any of the following conditions: (1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (2) if the wages, hours, and other conditions of the work offered are substantially less favorable to

the employee than those prevailing for similar work in the locality; (3) if acceptance of such employment would either require the employee to join a company union or would interfere with his joining or retaining membership in any bona fide labor organization.

**Section 7. SETTLEMENT OF BENEFIT CLAIMS** (a) **Filing.** Benefit claims shall be filed at the employment office, pursuant to general commission rules. (b) **Initial Determination.** A deputy designated by the commission shall promptly determine whether or not the claim is valid, and the amount of benefits apparently payable thereunder, and shall duly notify the employee and his most recent employer of such decision. Benefits shall be paid or denied accordingly, unless either party requests a hearing within five calendar days after such notification was delivered to him or was mailed to his last known address. (c) **Appeals.** Unless such request for a hearing is withdrawn the claims thus disputed shall be promptly decided, after affording both parties reasonable opportunity to be heard, by such appeal tribunal as the commission may designate or establish for this purpose. The parties shall be duly notified of such tribunal's decision, which shall be deemed a final decision by the commission except in cases where the commission acts on its own motion or, pursuant to general rules, permits the parties to initiate further appeal or review. (d) **Appeal Tribunals.** To hear and decide disputed claims, the commission may establish one or more appeal tribunals consisting in each case of one full-time salaried examiner (or commissioner) who shall serve as chairman, and of two other members, namely an employer or representative of employers and an employee or representative of employees, who shall each be paid a fee of not more than ten dollars per day of active service on such tribunal (plus necessary expenses) and shall serve until replaced by the commission except that no person shall hear any case in which he is a directly interested party. The chairman of such appeal tribunal may act for it at any session in the absence of one or both other members, provided they have had due notice of such session. (e) **Procedure.** The manner in which claims shall be presented, the reports thereon required from the employee and from employers, and the conduct of hearings and appeals shall be governed by general commission rules (whether or not they conform to common law or statutory rules of evidence and other technical rules of procedure) for determining the rights of the parties. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing shall be taken down by a stenographer, but need not be transcribed unless the disputed claim is further appealed. (f) **Commission Review.** The commission shall have the power to

remove or transfer the proceedings on any claim pending before a deputy, appeal tribunal, or commissioner; and may on its own motion (within ten days after the date of any decision by a deputy, appeal tribunal, commissioner, or by the commission as a body) affirm, reverse, change, or set aside any such decision, on the basis of the evidence previously submitted in such case, or direct the taking of additional testimony. (g) Appeal to Courts. Except as thus provided, any decision (unless appealed pursuant to general commission rules) shall, ten days after the date of such decision, become the final decision of the commission, and all findings of fact made therein shall (in the absence of fraud) be conclusive; and such decision shall then be subject to judicial review solely on questions of law. Such judicial review shall be barred unless the plaintiff party has used and exhausted the remedies provided hereunder and has commenced judicial action (with notice to the commission) within ten days after a decision hereunder has become the final decision of the commission in the disputed case. (h) Oaths and Witnesses. In the discharge of their duties under this section any deputy, any member of an appeal tribunal, and any examiner, commissioner, or duly authorized representative of the commission shall have power to administer oaths to persons appearing before them, take depositions, certify to official acts, and by subpoenas (requested by the commissioner of and served by the officers of the circuit court having jurisdiction of the parties) to compel attendance of witnesses and the production of books, papers, documents, and records necessary or convenient to be used by them in connection with any disputed claim. Witness fees and other expenses involved in proceedings under this section shall be paid to the extent necessary, at rates specified by general commission rules, from the unemployment administration fund.

Section 8. Court Review. (a) Within ten (10) days after the decision of the Commission has become final, either party may appeal to the Circuit Court, sitting in the county of the residence of the employee, from such decision. Upon the filing of any such appeal notice thereof shall be served upon the Commission by the appellant. Such appeals shall be heard by the Court at the earliest possible date and shall be given precedence over all other civil cases. It shall not be necessary on any such appeal to enter exceptions to the rulings of the Commission and no bond shall be required for entering such appeal. Said appeal shall be effected by the filing of a brief statement of his grievances by the appellant with the Clerk of said court. (b) An appeal may be taken from a decision of such Court to the Court of Appeals of Alabama or the Supreme Court of Alabama as now provided by law.

Section 9. UNEMPLOYMENT COMPENSATION COMMISSION. (a) Organization. There is hereby created a commission of three members, to be known as the Unemployment Compen-

sation Commission of Alabama. The members of the commission shall be appointed by the Governor within ninety days after the passage of this Act. The Governor shall designate one member as Chairman. The commissioners thus appointed shall serve, as designated by the Governor at the time of appointment, one for a term of two years, one for a term of four years, and one for a term of six years. At the expiration of such initial terms appointments shall be made for a term of six years in each case. Any appointment to a vacancy shall be for the unexpired term in question. No commissioner shall, during his term of office, serve as an officer or committee member of any political party organization. (b) Salaries. The Chairman of the commission shall be paid a fixed monthly salary, at the rate of \$3,600.00 per year of service, from the unemployment administration fund. The compensation of the associate members shall be ten (\$10.00) dollars per day for days actually spent upon the business of the commission, and necessary travelling expenses. (c) Meetings. The commission shall meet one day each calendar month. It shall meet such additional days each month as the business of the commission may require, when authorized by the Governor. (d) Quorum. **Any two commissioners shall constitute a quorum to transact business. No vacancy shall impair the right of the remaining commissioners to exercise all of the powers of the commission so long as a majority remain.** The commission shall determine its own organization and methods of procedure.

Section 10. ADMINISTRATION. (a) Duties and Power of Commission. It shall be the duty of the commission to administer this Act; and it shall have power and authority to adopt and enforce all reasonable rules and orders necessary or suitable to that end, and to employ any persons, make any expenditures, require any reports, and take any other action (within its means and consistent with the provisions of this act) necessary or suitable to that end. Annually, by the first day of February, the commission shall submit to the governor a summary report covering the administration and operation of this Act during the preceding calendar year, and making such recommendations as the commission deems proper. Whenever the commission believes that a change in contribution and/or benefit rates will become necessary to protect the solvency of the fund, it shall at once inform the governor and the legislature thereof, and make recommendations accordingly. (b) General Commission Rules—General rules, interpreting or applying this act and affecting all (or classes of) employers, employees, or other persons or agencies, shall be adopted by the commission only after discussion with a representative state-wide advisory council (constituted as hereinafter described) or after public hearing (before the commission) of which notice has been given through the press. Such general commission rules shall, upon adoption by a majority

of the commission, be duly recorded in its minutes and be filed with the Secretary of State, and shall thereupon take legal effect. Such rules may be amended, in the same manner as is above provided for their adoption. (c) Publication. The Commission shall cause to be printed in proper form for distribution to the public the text of this Act, the commission's general rules, its annual report to the governor, and any other material the commission deems relevant and suitable, and shall furnish the same to any person upon application therefor; and such printing and availability upon application shall be deemed a sufficient publication of the same. (d) Personnel. The Commission subject to the written approval of the Governor is authorized, within its means to appoint and fix the compensation of such officers, accountants, attorneys, experts and other persons as are necessary in the execution of its functions. All positions in the administration of this Act shall be filled by persons selected and appointed on a nonpartisan merit basis, under rules and regulations of the commission. The commission shall not employ or pay any person who is serving as an officer or committee member of any political party organization. The commission shall fix the duties and powers of all persons thus employed, and may authorize any such person to do any act or acts which could lawfully be done by a commissioner. The commission may in its discretion bond any person handling moneys or signing checks hereunder. (e) Advisory Councils. The Governor shall appoint a state-wide advisory council of not less than nine members and may appoint local advisory councils, composed in each case of equal numbers of employer representatives and employee representatives (namely of persons who may fairly be regarded as thus representative because of their vocation, employment or affiliations), and of members representing the public generally. Such councils shall aid the commission in formulating policies and discussing problems related to the administration of this act and in assuring impartiality, neutrality and freedom from political influence in the solution of such problems. Such advisory councils shall serve without compensation, but shall be reimbursed for any necessary travelling expenses, when approved by the Governor. Said state-wide advisory council shall assemble immediately upon their appointment by the Governor and institute a careful study and analysis of the National Security Act and of its relation to this Act and to the other Acts and laws of the State of Alabama designed to coordinate this State and its institutions with the plans and purposes of the Federal Government as expressed in its said Security Act. Said council shall at its earliest possible convenience prepare recommendations as to changes, amendments or modifications of such Acts and laws of the State of Alabama, and particularly this Act, and said recommendations shall be submitted to the Governor

and to the Legislature at its next session and at such succeeding sessions as said council may deem proper. (f) Employment Stabilization. It shall be one of the purposes of this Act to promote the regularization of employment in enterprises, localities, industries and the state. The commission, with the advice and aid of its advisory councils, shall take all appropriate steps within its means to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise and assist in the establishment and operation, by municipalities, counties, school districts and the state, of reserves for public works to be used in times of business depression and unemployment; to promote the reemployment of unemployed workers throughout the State in every other way that may be feasible; and to these ends to employ experts and to carry on and publish the results of investigations and research studies. (g) Records and Reports. Every employer (of any person in this State) shall keep true and accurate employment records of all persons employed by him, and of the weekly hours worked for him by each, and of the weekly wages paid by him to each such person. Such records shall **be open to inspection by the commission or its authorized representatives** at any reasonable time and as often as may be necessary. The commission may require from any employer (of any person in this State) any reports covering persons employed by him, or employment, wages, hours, unemployment and related matters, which the commission deems necessary to the effective administration of this act. Information thus obtained shall not be published or be open to public inspection in any manner revealing the employer's identity, and any commission employee guilty of violating this provision shall be subject to the penalties provided in this Act. (h) Representation in Court. On request of the commission the attorney general shall represent the commission and the state in any court action relating to this act or to its administration and enforcement, except as special counsel may be designated by the commission with the approval of the Governor and except as otherwise provided in this act. (i) State Federal Cooperation. The commission is hereby authorized and directed to cooperate in all necessary respects with the appropriate agencies and departments of the federal government, in the administration of this act and of free public employment offices; and to make all reports thereon requested by any directly interested federal agency or department; and to accept any sums allotted or apportioned to the state for such administration, and to comply with all reasonable federal regulations governing the expenditures of such sums. (j) Employment Offices. The commission shall establish and maintain such free public employment offices, including such branch offices, as may be neces-



sary for the proper administration of this Act, when and if such officers are not maintained by the federal government in the state and their services made available to the state. All moneys thereafter made available by or received by the state for the state employment service shall be paid to (and expended from) the unemployment administration fund, and a special "employment service account" shall be maintained for this purpose as a part of said fund.

Section 11. ACCEPTANCE OF ACT OF CONGRESS. Relating to Employment Service. (a) Formal Acceptance. The state hereby accepts the provisions of the Wagner-Peyser Act, approved June 6, 1933 (48 Stat. 113, United States Code, Title 29, Section 49 (c) ); "An Act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes" in conformity with Section 4 thereof, and will observe and comply with the requirements of said Act of Congress. (b) State Employment Service. There is hereby created, under the Unemployment Compensation Commission, a division to be known as the "Alabama State Employment Service," which shall be affiliated with the United States Employment Service. The said division is hereby designated and constituted the agency of this state for the purposes of the Wagner-Peyser Act. The said division shall be administered by a full-time salaried director, who is hereby given full power to cooperate with all authorities of the United States having powers or duties under the said Act of Congress and to do and perform all things necessary to secure to this state the benefits of the said Act of Congress in the promotion and maintenance of a system of public employment offices. (c) Financing. All moneys made available by or received by this State under said Act of Congress shall be paid into a special "employment service account" in the unemployment administration fund, and said moneys are hereby appropriated and made available to the "Alabama State Employment Service" to be expended as provided by this Act and by said Act of Congress.

Section 12. RECIPROCAL BENEFIT ARRANGEMENTS WITH OTHER STATES. The Commission is hereby authorized, subject to approval by the governor, upon such terms as in its judgment will not result in any loss to the fund, to enter into reciprocal arrangements with the proper authorities, in the case of any other unemployment compensation system established by any state law or by an Act of Congress, as to persons who have (after acquiring rights to benefits under this Act or under such other system) newly come under this Act or under such other system, whereby such benefits (or substantially equivalent benefits) shall be paid (or both paid and financed) in whole or in part through (or by) the fund of the unemployment compensation system newly applicable to such person. Such reciprocal arrangements shall be

adopted and published by the commission in the same manner as its general rules.

**Section 13. PROTECTION OF RIGHTS AND BENEFITS.** (a) **Waiver of Rights Void.** No agreement by an employee to waive his right to benefit or any other right under this Act shall be valid. No agreement by an employee or by employees to pay all or any portion of the contributions required under this act from employers shall be valid. No employer shall make or require any deduction from wages to finance the contributions required of him, or require any waiver by an employee of any rights hereunder. Any employee claiming a violation of this section may have recourse to the method set up in this Act for deciding benefit claims; and the commission shall have power to take any steps necessary or suitable to correct and prosecute any such violation. (b) **Limitation of Fees.** No employee shall be charged fees of any kind by the commission or its representatives, in any proceeding under this Act. Any employee claiming benefits in any proceeding or court action may be represented by counsel or other duly authorized agent; but no such counsel or agents shall together charge or receive for such services more than ten per centum of the maximum benefits at issue in such proceeding or court action. (c) **No Assignment or Garnishment of Benefits.** Benefits which are due or may become due under this Act shall not be assignable before payment, but this provision shall not affect the survival thereof; and when awarded, adjudged, or paid shall be exempt from all claims of creditors and from levy, execution and attachment or other remedy now or hereafter provided for recovery or collection of debt, which exemption may not be waived.

**Section 14. COLLECTION OF CONTRIBUTIONS.** (a) **Interest on Tardy Payments.** If any employer fails to make promptly, by the date it becomes due hereunder, any payment required to be made by him under this act, he shall be additionally liable (to the unemployment administration fund) for interest on such payment at the rate of one per centum per month from the date such payment became due until paid, pursuant to general commission rules. (b) **Bankruptcy.** In the event of an employers' dissolution, bankruptcy, adjudicated insolvency, receivership, assignment for benefits of creditors, judicially confirmed extension proposal or composition, or any analogous situation, contribution payments then or thereafter due under this act shall have the greatest priority (subsequent to taxes, but at least equal to wage claims) then permitted by law; but this sub-section shall not impair the lien of any judgment entered upon any award. (c) **Court Action.** Upon complaint of the commission, the attorney-general shall institute and prosecute the necessary actions or proceedings for the recovery of any contributions or other payments due here-

under; or, at his request and under his direction, the prosecuting attorney (of any county in which the employer has a place of business) shall institute and prosecute the necessary actions or proceedings for the recovery of any contributions or other payments due hereunder.

**Section 15. PENALTIES** (a) Whoever wilfully makes a false statement or representation to obtain or increase any benefit or other payment under this Act, either for himself or for any other person, shall upon conviction be punished by a fine of not less than twenty nor more than fifty dollars, or by imprisonment in the county jail not longer than thirty days, or by both such fine and imprisonment; and each such false statement or representation shall constitute a separate and distinct offense. (b) Any employer (of any person in this state) and any officer or agent of an employer, who wilfully makes a false statement or representation to avoid becoming or remaining subject hereto or to avoid or reduce any contribution or other payment required of such employer under this act, or who wilfully fails or refuses to make any such contribution or other payment or to furnish any reports duly required hereunder or to appear or testify or produce records as lawfully required hereunder, or who makes or requires any deduction from wages to pay all or any portion of the contributions required from employers, or who tries to induce any employee to waive any right under this act, shall upon conviction be punished by a fine of not less than twenty nor more than two hundred dollars, or by imprisonment in the county jail not longer than sixty days, or by both such fine and imprisonment; and each such false statement or representation, and each day of such failure or refusal, and each such deduction from wages, and each such attempt to induce shall constitute a separate and distinct offense. (c) Any violation, of any provision of this Act, for which a penalty is neither prescribed above nor provided by any other applicable statute, shall be punished by a fine of not less than twenty nor more than fifty dollars, or by imprisonment in the county jail not longer than thirty days, or by both such fine and imprisonment. (d) On complaint of the commission the fines specified or provided in this section may be collected by the state in an action for debt. All fines thus collected shall be paid to the unemployment administration fund.

**Section 16. UNEMPLOYMENT ADMINISTRATION FUND**  
 (a) **Special Fund.** There is hereby created the "Unemployment Compensation Administration Fund", to consist of all moneys received by the state or by the commission for the administration of this act or appropriated by the State for the purposes of this act and actually paid into such fund. This special fund shall be handled by the state treasurer as other state moneys are handled; but

it shall be expended solely for the administration of this Act and other purposes herein specified, and its balances shall not lapse at any time but shall remain continuously available to the commission for expenditure consistent herewith. (b) Federal Aids. All federal moneys allotted or apportioned to the State by the federal Social Security Board (or other agency) for the administration of this act shall be paid into the unemployment administration fund. (c) Employment Service Account. A special "employment service account" shall be maintained as a part of said fund.

Section 17. APPROPRIATIONS (a) All moneys in the unemployment administration fund at any time are hereby appropriated to the unemployment compensation commission including its employment service division. (b) There is hereby appropriated, to the employment service account of the unemployment administration fund, from any money in the state treasury not otherwise appropriated, for the fiscal year ending September 30, 1935 and annually thereafter on the first day of October, the sum of \$10,000.

Section 18. SAVING CLAUSE. The legislature reserves the right to amend or repeal all or any part of this act at any time; and there shall be no vested private right of any kind against such amendment or repeal.

Section 19. SEPARABILITY OF PROVISIONS. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 20. EFFECTIVE DATE. This act shall take effect upon its enactment.

Approved September 14, 1935.

No. 448)

(S. 397—Simpson.

## AN ACT

To establish a more humane system for caring for the needy aged in the State of Alabama and the several counties thereof by providing for old age pensions; to define the persons entitled thereto, and to provide for the ascertainment and determination of the qualifications of applicants therefor; to further provide for and regulate the payment of pensions under Article I of Chapter 55 of the Code of Alabama of 1923, as amended; to provide for the payment thereof; to make an appropriation for the same; to provide for a lien on the property of certain recipients of old age pensions and to provide for the enforcement thereof, to provide for the administration of such system and to define offenses against this Act and to fix punishment for such offenses; and to provide for cooperation with the Government of the United States and its agencies in caring for the needy aged; and to repeal all laws in conflict herewith.

*Be it Enacted by the Legislature of Alabama:*

Section 1. The term "State Department" as used in this Act shall mean the State Department of Public Welfare; the term "County Department" as used in this Act shall mean the County Department of Public Welfare; the term "County Board" as used in this Act shall mean the County Board of Public Welfare, the term "County Director" as used in this Act shall mean the Director of the County Department of Public Welfare; the term "county governing body" as used in this Act shall mean the Board of County Commissioners, Board of Revenue, Court of County Commissioners or other Court or Board of like jurisdiction of a County in this State; the term "he" or "him" or "his" as used in this Act shall be interpreted to mean he or she or him or her or his or her.

Section 2. The county governing bodies, in addition to the powers now given them, shall have the power to provide and use funds in the county treasury for the purpose of carrying out the provisions of this Act.

Section 3. Old age pensions shall be payable under this Act to any person who shall comply with the requirements of this Act and who: (a) Has attained the age of 65 years. (b) Is a citizen of the United States and has been a resident of the State of Alabama for at least five years within the nine years immediately preceding his application for old age assistance; (c) Has resided in the state for at least one year immediately preceding the date of the application; (d) Has resided in and been an inhabitant of the county in which application is made for at least one year immediately preceding the date of the application, or has a legal settlement in the county in which the application is made. Any person otherwise qualified who has resided in the state for five years or more within the nine years immediately preceding the application and who has no legal settlement, shall file his application in the county in which he is residing, and his assistance, if granted, shall be paid entirely from state funds until he can qualify as having a legal settlement in the said county. For the purpose of this Act, every person who has resided one year or more in any county in this state shall thereby acquire a legal settlement in such county which he shall retain until he has acquired a legal settlement elsewhere or until he has been absent voluntarily and continuously for one year therefrom; (e) Has no income or has income which, when added to the contributions in money, subsistence or service from legally responsible relatives or from any other source, is inadequate to provide a reasonable subsistence in proportion to his accustomed standard of living; Provided, however, that where an applicant for a pension has an income of \$360.00 or more, annually, no pension shall be granted or allowed; provided, further, that in granting or allowing pensions the individual income of

applicants for pension or pensioners must be taken into consideration, and in no event shall the combined individual income and pension of such applicant or pensioner exceed \$360.00 annually, nor shall any pension or pensions to any family exceed \$360.00 annually. (f) Has not directly or indirectly disposed or deprived himself of any property for the purpose of qualifying for the benefits of this Act; (g) Has not during the ten years last past been imprisoned upon a conviction for a felony; (h) Is not an inmate of any public institution; (i) Is not at the date of making application an inmate of any prison, jail, insane asylum or other public reform or correctional institution nor has been an inmate of such institution for the last past year. (j) During the ten years next preceding the date of making application for a pension hereunder; if a husband has not for six months or more, deserted his wife, or without just cause, failed to support his wife or his children under 16 years of age; if a wife, has not for six months or more deserted her husband, or, without just cause, failed to support such of her children as were under 16 years of age and whom she was legally bound to support.

Section 4. It shall be the duty of the county governing body **in each county to provide a reasonable subsistence in proportion** to the accustomed standard of living of the applicant to each person eligible for an old age pension under the provisions of this Act. The amount of such pension shall, subject to rules, regulations and standards of the state Department, be determined by the County governing body with due regard to the conditions existing in each case. The amount of each pension shall not be more than \$30.00 monthly, except that in the case of any person who served in and was honorably discharged from the armed forces of the United States or of the Confederate States of America in the War Between the States, the amount of each pension shall not exceed \$50.00 monthly.

Section 5. Application for a pension shall be filed with the County Director. The application shall state the name of the applicant, the place and date of his or her birth, and, if a naturalized citizen, the place and date of his naturalization; his present place of residence and postoffice address and the length of residence at such place; the place of his residence for ten years last past and the length of his residence at each place; whether married or single, and if single whether a bachelor, unmarried woman, widowed, or divorced and the length of time so widowed or divorced; an inventory of all real and personal property owned, with the value of each item and if assessed for taxation the assessed value thereof; and the amount of income for one year last past and the source thereof; whether if imprisoned upon conviction of a felony and if so when; the name, age and place of residence of husband or wife,

respectively, if any; the names, ages, and places of residence of all children, brothers and sisters; general state of health and whether deaf, blind, crippled or otherwise incapacitated for his usual occupation, and the nature and extent of any incapacity claimed; and such other information as may be prescribed from time to time by the State Department. An investigation and record shall be promptly made by the County Director of the circumstances of the applicant. The object of such investigation shall be to ascertain the facts supporting the application made under this Act and such other information as may be required by the rules of the State Department. The County Department shall have the power to issue subpoenas for witnesses and compel their attendance and the production of papers and writings, and its Director and employees designated by him may administer oaths and examine witnesses under oath. The County Director shall certify his finding and recommended award in each case to the county governing body which shall within thirty days thereafter, upon such additional investigation or hearing, if any, as it deems necessary, either approve, disapprove, or amend such finding or recommended award.

Section 6. When its decision has been made the county governing body shall enter an order in its minutes denying the application, if denied, and the grounds therefor, or granting a monthly pension to the applicant, if granted, in such amount as limited in this Act, and for such length of time not exceeding one year as the county governing body shall deem just and reasonable, which order shall state the name, age, place of residence of the applicant, and date on which pension was begun and shall authorize the drawing of a warrant against the general fund of the county for such payments to the applicant or to such person, for the use of the applicant, as the county governing body shall designate, and the county governing body shall have the power to impose as a condition to such grant that the applicant shall assign, convey or transfer to the county the whole or such portion of his property as the county governing body shall deem adequate, as a security for the retirement of the amount paid to the pensioner, together with interest thereon. Notice of the action taken by the county governing body on an application shall be given the applicant in writing by registered letter, return receipt requested, mailed to him at the address given on his application. Said letter of notice shall be mailed to the applicant not more than five days after the county governing body shall have taken action.

Section 7. In the event an application is denied or the amount or terms of an award or of any modification thereof be deemed inadequate or unjust by the applicant, the applicant affected may demand a review of his case before the State Department by fil-

ing his written request for such review with such county governing body not more than sixty days after notice of its action, such governing body shall thereupon certify its records and data on the case, including the records of the County Department, and such additional information as it deems relevant, to the State Department, which Department shall promptly grant a hearing upon such application. At this hearing any party at interest may appear and present any relevant facts. The State Department shall make such additional investigation as it may deem necessary and shall certify its finding and award on the case back to the county governing body concerned and such finding and award shall thereupon become final and effective as of such date as the State Department shall fix. In the review of any disallowance of an application or of an award or modification thereof, the State Department may act through its Board or through any three members thereof designated by its Chairman or other presiding officer.

Section 8. It shall be the duty of the State Department to review all disallowances of applications and all awards and modifications of awards made by the county governing body of each county. The State Department may at any time upon its own motion, after notice to the applicant and to the county governing body and due opportunity for a hearing, make such decision as to the granting of any pension and the amount and terms thereof as in its opinion is justified by the facts, and is in conformity with the provisions of this Act, and such decision shall be final and shall be binding upon the county and applicant and shall be complied with by the county governing body. No decision of the State Department shall increase the award made by a County governing body except in a case where under the provisions of Section 7 hereof the applicant has demanded a review of the award.

Section 9. On or before the expiration of one year from the date of an order granting an old age pension and at the expiration of each year thereafter, unless the pension has been canceled by order of the County governing body or the recipient has died, the county governing body, after recommendation of the County Director and such hearing and investigation as it shall deem necessary, shall have the power to enter an order renewing such pension for the ensuing year, in which order the amount of monthly allowances may be decreased or increased to any sum, within the limits fixed in this Act, as the County governing body may deem just. Its action in this respect shall be subject to appeal and review as prescribed in Sections 7 and 8.

Section 10. If at any time the recipient of an old age pension, or the husband or wife of such recipient, shall become possessed of any property or income in excess of that owned or being re-



ceived at the date of the application or if at any time any relative of the recipient responsible in law for his support, becomes able to support the recipient, in whole or in part, it shall be the duty of the recipient immediately to notify the County governing body in writing of the facts in the case. The County governing body upon such notification, or upon otherwise learning the facts, shall, after investigation, continue, reduce or cancel the amount of the pension as the facts may warrant. Its action in this respect shall be subject to appeal and review as provided in Sections 7 and 8 above.

Section 11. All amounts paid or payable as old age pensions shall be exempt from any tax levied by the State or any subdivision thereof and shall be exempt from levy and sale, garnishment, attachment or any other process whatsoever and shall be inalienable in any form and in the case of bankruptcy shall not pass to the trustee or other person acting on behalf of the creditors of the recipient of an old age pension.

Section 12. Any person who by means of a false statement, knowing it to be false, or wilful misrepresentation or by impersonation or other fraudulent device obtains or attempts to obtain or aids or abets any person in obtaining an old age pension to which such person is not entitled or a larger amount of pension than that to which he is justly entitled shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$500.00 and may also be sentenced to hard labor for the County for not exceeding twelve months, or both.

Section 13. The pension records and accounts of each county shall be maintained as prescribed by the State Department and shall be subject to inspection, supervision and audit in the same manner and with the same effect as now or hereafter may be provided by law for the examination of other public offices, and the county governing body shall annually make report to the State Department of all receipts and disbursements of the county for old age pensions in such manner and upon such forms as the State Department may require and such reports shall be made at such time as the State Department may require.

Section 14. The County Director shall perform the duties herein specified and such other duties in the administration of this Act as the County Governing board may from time to time designate, subject to the rules and regulations of the State Department. The County Director shall make such reports to the State Department and furnish such information to the State Board as may be required by it. The State Department shall make such reports and furnish such information as may be required by the Federal Social Security Board or other Federal Agency which may be provided for the administration of Federal aid to State systems of old age pensions.

Section 15. The State Department shall supervise the administration of old age pensions under this Act. The State Department shall prescribe the form of and print and supply to County Directors and when requested to the County Governing bodies, blanks of applications, reports, affidavits and such other forms as it may deem advisable. The State Department shall make rules and regulations necessary for the carrying out of the provisions of this Act to the end that old age pensions may be administered uniformly throughout the State, having regard for the varying costs of living in different parts of the State, and that the spirit and purpose of this Act may be complied with. All such rules and regulations made by the State Department shall be binding upon its agents and subordinates and all others charged by law with the administration of this Act in this State. Within 90 days after the close of each fiscal year, the State Department shall make a report to the Governor for such year, which shall include a full account of the administration of this Act, the expenditure of all funds hereunder, adequate statistics concerning old age pensions within the State, and such other information and recommendations as the State Department may deem advisable.

Section 16. The State of Alabama shall quarterly, upon requisition of the State Department, pay each county a sum in money equivalent to three-fourths of the amount estimated to be expended by the county during the ensuing three months for relief for each old age pensioner who has been granted relief under the provisions of this Act, increased or decreased, as the case may be, by any sum which for any prior quarter was greater or less than three fourths of the amount actually expended by the County under the provisions of this Act. The funds for one-third of such payment shall be those arising from the one mill tax now devoted by law to the payment of the pensions provided for by Article 1 of Chapter 55, of the Code of Alabama of 1923, as amended, (Confederate Pensions) and remaining after the payment of all charges against said funds for the payment of said pensions as now provided for by Article 1 of Chapter 55, of the Code of Alabama of 1923, as amended, (Confederate Pensions) which said Confederate Pensions, in their entirety, shall remain a prior, paramount and first charge against said funds. In the event, for any given year, said pension funds arising from said one mill tax shall prove insufficient, after paying the said Confederate Pensions, for one-third of such payment, then the payment by the State to the County herein provided for shall be made from such surplus and from such additional funds as the Legislature may from time to time provide; in the event said surplus and such other funds shall not be sufficient to make one-third of such reimbursement in full, then the same shall be paid to the several Counties of the State

paying pensions hereunder in sums bearing such proportion to the whole surplus and other funds available to be divided, as the total due each County bears to the total due all counties. Two-thirds of such payment shall be made from Federal funds allotted to the State for old age assistance and received by the State from the United States.

Section 17. Any person entitled to any pension under Article 1 of Chapter 55 of the Code of Alabama of 1923, as amended, (Confederate Pensions) who may also be entitled to an old age pension under the terms of this Act, shall be required to make application for a pension as herein provided. Any pension actually received by any such person under the terms of this act shall be deducted from the pension due such person under the provisions of said Article 1 of Chapter 55, of the Code of Alabama of 1923, as amended (Confederate Pensions). If any such person shall fail to make such application hereunder on or before March 1, 1936, the State Department shall as soon as practicable thereafter, make application on his behalf in the county wherein he resides, and such application shall thereupon be heard and passed upon as if filed by such person himself. Nothing herein contained however shall ever under any circumstances be construed or allowed to cause a Confederate Pensioner Veteran or widow to receive less than he would, but for the passage of this Act.

Section 18. The funds allotted to the State by the Federal Social Security Board under Section 3 (a) (2) of Title 1 of the Social Security Act, or any Act amendatory thereof, and received by the State from the United States shall be used for the administration of this Act by the State Department and the County Departments and shall be apportioned by the State Department in the following manner: (1) One-half of such funds shall be apportioned to the State Department; (2) one-half of such funds shall be apportioned to the several County Departments in the proportion to the estimate of the County Board of the total sums to be expended by their counties for old age pensions in the next quarter, reduced or increased, as the case may be, in proportion to any sum which the State Board finds that any County Board in its estimate for any prior quarter was greater or less than the amount actually paid in old age pensions. The State of Alabama shall pay to the County Departments the amounts so apportioned at such times and under such rules relative to such payment as may be prescribed by the State Department.

Section 19. Nothing in this Act contained shall be construed as prohibiting any person now an inmate of a public institution from applying for a pension hereunder. In the event an applicant for a pension hereunder is so physically incapacitated that it is necessary for him to be hospitalized, the County is authoriz-

ed to make such arrangements as are necessary to secure such hospitalization, even though the amount to be expended exceeds the maximum pension allowable to the applicant hereunder, but the amount to be reimbursed the County by the State shall be computed as though the amount paid such pensioner did not exceed such maximum. The County may make contracts for this hospitalization with any public or private institution or person.

Section 20. There is hereby appropriated out of the funds in the State Treasury arising from the aforesaid one mill tax set apart for the payment of Confederate Pensions all the surplus and residue thereof after the payment in full of the said Confederate Pensions and other charges against said fund set out in Article 1 of Chapter 55 of the Code of Alabama of 1923, as amended, for the purposes and to be used and applied as herein directed, and there is hereby also appropriated any funds received by the State from the United States for old age assistance, to be used and applied as herein directed.

Section 21. The total amount paid to the recipients of old age pensions under this Act shall be a lien upon the estates of such recipients. On the death of a person receiving assistance under this Act, or of the survivor of a married couple, both of whom were assisted, the total amount paid as assistance shall, subject to dower and homestead and personal property exemptions of a surviving widow, be allowed and deducted from the estate by the court having jurisdiction to settle the estate, and paid to the County, the State and the United States or their duly authorized representative in proportion to the amount of assistance furnished by each. The County Governing body shall under rules of the State Department require as a condition to granting assistance in any case, that the applicant submit a properly acknowledged agreement to reimburse the State and the County for all assistance granted. In such agreement said applicant shall assign as collateral security or mortgage for said assistance such part of his property as the county governing body shall demand. At any time the county governing body may execute and file with the Probate Judge a certificate in form to be prescribed by the State Department showing the amount of assistance paid to said person and when so filed the same shall be recorded by the Probate Judge; each said certificate shall constitute notice of a lien against the estate of said person. The Probate Judge shall keep a suitable record of such certificate without charging any fee therefor and enter therein an acknowledgement of satisfaction upon receipt of notice thereof from the County Governing body. Where any recovery is had under the terms of this Act from the recipients of a pension hereunder before any distribution of such recovery is made to either the State

or County one-half of such recovery shall be paid to the United States Government.

Section 22. If the county governing body shall deem it necessary it may with the consent of the State Department, require as a condition to the grant or continuance of assistance in any case, that all or any part of the property of the person applying for a pension hereunder be transferred to said county governing body. Such property shall be managed under rules and regulations of the State Department by said county governing body, which shall pay the net income thereof to such person; said county governing body shall have power to sell, lease or transfer such property or to defend or prosecute suits concerning it or to pay all just claims against it and to do all things necessary for the protection, preservation and management thereof. If the assistance to such person is discontinued during his lifetime the property thus transferred to the County Governing body shall be returned to him subject to a lien on such property for such sums as may have been paid to him as assistance under this Act, or the remainder of such property after deducting therefrom the sums paid to him as assistance under this Act shall be returned to him. In the event of his death, the remainder of such property, after deducting therefrom the sum paid him as assistance under this Act, shall be considered as the property of the pensioner for proper administration proceedings. The County Governing body shall execute and deliver all necessary instruments to give effect to this section. The County Governing body shall make no charge for the management of any property held by it hereunder, except for compensation paid agent in accordance with the scale prevailing in similar private transactions. In the management of said property, the County Governing board shall utilize the services, to the extent they are necessary, of agents designated by the owner of the property.

Section 23. The provisions of Sections 21 and 22 hereof shall not apply to any applicant hereunder who served in and was honorably discharged from the armed forces of the United States or of the Confederate States of America in the war between the States, or who is the widow of any such person, and no claim for restitution or reimbursement of any sum paid any such applicant shall ever be made against such applicant or his estate. No county governing body shall impose as a condition to a pension grant to any such applicant that the applicant shall assign, convey or transfer to the county any of his property as security for the retirement of any pension paid him hereunder.

Section 24. Any person qualified for and receiving a pension hereunder in any county in this State who removes to another county in the State shall be entitled to receive the pension there-

tofore granted to him from the county of his new residence after he has resided therein for one year, provided an agreement in writing has been entered into by and between the two counties concerned approving such transfer. In such event the county of first residence shall continue payment of the pension to such person for said one year period, and thereafter the second county shall pay the same.

Section 25. The fact that any clause, sentence, paragraph or section hereof may be declared unconstitutional by a court of competent jurisdiction shall not result in the remainder of the Act being abandoned or declared void, but the Legislature now declares it as its intention to enact such remaining parts independently of and notwithstanding the striking down of such unconstitutional part.

Section 26. In the event funds available for the payment of pensions by any county are not sufficient to pay all pensions in full, all pensions shall be paid in lesser amounts ratably and proportionately, so that the funds available shall be distributed among all pensioners in proportion to the amounts of their pensions. When State funds available for reimbursement of counties are not sufficient to meet all claims for reimbursement in full, said claims shall be paid in lesser amounts ratably and proportionately so that the funds available shall be distributed among all claimants for reimbursement in proportion to the amounts of their claims.

Section 27. This Act shall become effective upon its passage except that no pension shall be paid hereunder prior to that for the month of January, 1936. All laws or parts of laws in conflict herewith are hereby repealed.

Approved September 14, 1935.

No. 449)

(S. 409—Woodall

### AN ACT

To authorize and empower the governor to contract rental or lease agreements with persons, firms, or corporations owning bridges across streams between counties and on state maintained highways, so as to make said bridges free for crossing of the travelling public and to provide for the payment of a maximum yearly rental thereon.

*Be it enacted by the Legislature of Alabama:*

Sec. 1. That the Governor of this state be and he is hereby empowered and authorized to lease, on the best terms as he is able to obtain, any bridge or bridges, which are located on state maintained highways in this state, and which cross streams running between counties in the state and which may be owned by

private persons, firms, or corporations. The said lease or rental shall be of such length of time as the governor may deem best. Provided however no bridge authorized hereunder to be leased or rented shall be leased or rented for a greater sum than five thousand dollars per annum.

Sec. 2. The rental thereon shall be paid out of the highway fund of the state, not otherwise appropriated, at such intervals as the governor may contract for and shall be paid by issuance of warrants by the Comptroller on the State Treasurer and approved by the governor.

Sec. 3. When such rental contracts shall have been entered into as herein provided, said bridge shall be free to the travelling public. This act shall be construed so as to effect the purpose thereof.

Sec. 4. The provisions of this act shall be effective on its approval by the governor.

Approved September 13, 1935.

No. 451)

(S. 428—Rogers

#### AN ACT

To appropriate the sum of three hundred dollars (\$300.00) for the casting into bronze of six plaster plaques of Alabama historical characters.

*Be it enacted by the Legislature of Alabama:*

Section 1. That for the purpose of having cast into bronze six plaster plaques of Alabama historical characters done by artists on Federal relief, there is hereby appropriated the sum of three hundred dollars (\$300), out of any moneys in the State Treasury not heretofore otherwise appropriated.

Section 2. That the sum appropriated by Section 1 hereof, shall be paid by the State Treasurer, on warrants drawn therefor by the State Auditor in favor of a metal work company upon requisition of the Director of the Department of Archives & History.

Approved September 13, 1935.

No. 452)

(H. J. R. 203—Coleman.

## HOUSE JOINT RESOLUTION

WHEREAS, it is more than 390 miles from points in North Central Alabama to the nearest veterans hospital for the treatment of nervous and mental diseases, namely, Augusta, Georgia, and more than 456 miles to the hospital to the west where such veterans can be treated, namely, North Little Rock, Arkansas, 402 miles to the hospital to the south, namely, Gulfport, Mississippi, 451 miles to the hospital to the north, namely, Lexington, Kentucky, and there are at present more than 300 Alabama veterans in the four facilities named, or in other facilities more distant from their homes; and,

WHEREAS, the hospitals named are now filled to overflowing and there are veterans now confined in public institutions in the State of Alabama whose relatives and friends are unwilling that they be transferred so far beyond the borders of the state as that they will be unable to see them from time to time, and for the reason that such veterans in part are awaiting beds in hospitals in facilities capable of caring for and treating them on account of the **overcrowded condition of such facilities**; and,

WHEREAS, it is the desire of the people of the State of Alabama, speaking through their representatives in the state Legislature, to bring back to their home state such of the said veterans as are now confined in the distant facilities herein named, and the State is willing and will be happy to cooperate in every way with the Federal Government in establishing a facility for their treatment within its borders;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, The House and Senate jointly concurring, that the State of Alabama hereby extends to the Federal Government an invitation to construct a veterans hospital for the treatment of nervous and mental diseases within its borders, and pledges to the Federal Government the cooperation of all of the facilities of the state in building and maintaining such institution.

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the Honorable Franklin Delano Roosevelt, the President of the United States, to the sub-committee of the General Hospital Board now considering the project herein named, namely, Rear Admiral P. S. Rossiter, Brig. Gen. Frank T. Hines, and Col George E. Ijams; to each member of the Alabama delegation in the National Congress; that a copy of the same be spread upon the journal of the House and Senate, and a copy be furnished to the press.

Approved September 13, 1935.



## AN ACT

To abolish the office of Deputy Circuit Clerk of the Criminal Division of the Circuit Court which was created by an Act entitled "An Act to create the office of Deputy Circuit Clerk of the Criminal Division of the Circuit Court in all counties of the State having a population of more than two hundred thousand, according to the last, or any subsequent federal census; to provide for the appointment of such officer and the election of his successor; to prescribe the duties, authorities and to fix the compensation of such Deputy Circuit Clerk", approved February 3, 1923; to require that all duties, powers and acts pertaining to and required of such Deputy Circuit Clerk be performed by the Clerk of the Circuit Court of such counties, and to provide for the transfer of all books, records, documents, papers and moneys in the possession of such Deputy Circuit Clerk collected from, or pertaining to, cases pending or disposed of in the Criminal Division of the Circuit Court to the Clerk of the Circuit Court of such Counties, and to provide that such Deputy Circuit Clerk shall be and others may be employed by the Circuit Clerk; to fix the duration of such duties and to provide for the compensation and conditions for such service; and to provide the effective date hereof.

*Be it enacted by the Legislature of Alabama:*

Section 1. The office of Deputy Circuit Clerk of the Criminal Division of the Circuit Court, which was created by an Act approved February 3rd, 1923, entitled "An Act to create the office of Deputy Circuit Clerk of the Criminal Division of the Circuit Court in all counties of the State having a population of more than two hundred thousand, according to the last, or any subsequent federal census; to provide for the appointment of such officer and the election of his successor; to prescribe the duties, authorities and to fix the compensation of such Deputy Circuit Clerk," be and the same is hereby abolished.

Section 2. The Clerk of the Circuit Court of such counties be and he is hereby directed and authorized to perform all duties, powers and acts pertaining to and required of such Deputy Circuit Clerk of the Criminal Division of the Circuit Court of such counties, and such Deputy Circuit Clerk be and he is hereby required and directed to transfer all books, records, documents, papers and moneys in his possession, collected from, or pertaining to cases pending or disposed of in the Criminal Division of the Circuit Court to the Clerk of the Circuit Court of such Counties.

Section 3. It is the purpose of the Legislature by this Act to effect economy, to further consolidate and facilitate the functioning of the courts, and in doing so to disturb the functioning of the offices involved as little as possible. To perform the additional duties imposed upon him by this Act, the Clerk of the Circuit Court is hereby authorized and directed to employ the person who shall at the time this Act becomes effective be holding the office of Deputy

Circuit Clerk under said Act approved February 3, 1923, and assign to him duties in the office of the said Circuit Clerk, and until the 20th day of November, 1940, his compensation is hereby fixed at the sum which he would have received had the said office of Deputy Circuit Clerk not been hereby abolished, namely, \$4200.00 per annum, payable in equal monthly installments out of the general funds of said County, and thereafter his compensation shall be such as may then be provided by law applicable to other employees of the Circuit Clerk. The person now holding the said office of Deputy Clerk, while in the employ of the said Circuit Clerk, shall in all respects be subject to the provisions of any applicable Civil Service Law, except as to salary for the period ending November 20, 1940, and will be deemed to have attained permanent Civil Service status.

Section 4. In the event it shall be necessary for the said Circuit Clerk to have further and other assistants in the discharge of the additional duties imposed upon him by this Act, he is hereby authorized and required to select the employees required to render such additional assistance from among those persons now employed in the office of the said Deputy Circuit Clerk provided for in said Act approved Feb. 3, 1923. Said employees, if any, so required by the Circuit Clerk, shall, for the purposes of any Civil Service Law applicable, be treated as if they had been employees of the said Circuit Clerk for the same period and at the same duties and on the same status as they may have been employed in the office of said Deputy Clerk hereby abolished.

Section 5. This Act shall become effective on the first day of the calendar month next succeeding its enactment.

Approved September 13, 1935.

No. 454)

(H. 330—Staples

### AN ACT

To designate the time, each year, when the Board of Registrars shall sit for the purpose of registering voters, purging the registration list, and hearing objections to names being stricken from the registration list, in all counties in this State which may now or hereafter have a population of not less than 100,000 nor more than 300,000 according to the last or any succeeding Federal census; to provide that said sessions shall be in lieu of all other sessions now authorized by law; to provide that the partial invalidity of this act shall not affect the remainder hereof; to repeal all laws or parts of laws in conflict herewith; and to provide when this act shall become affective.

*Be it enacted by the Legislature of Alabama:*

Section 1. That in all counties in this State which may now or hereafter have a population of not less than 100,000 nor more

than 300,000 according to the last or any succeeding Federal census, the Board of Registrars shall meet at the Courthouse on the first day of each October and hold daily sessions (Sundays and legal holidays excepted) from and including said date through the succeeding February 1st, for the purpose of registering voters. Said board shall also meet on the first Monday of April of each year and remain in session daily for thirty days (Sundays and legal holidays excepted) for the purpose of purging the registration lists and shall again meet each year on the first Monday after the expiration of one week from the expiration of said last mentioned session and shall remain in session daily for six days for the purpose of hearing objections to striking names from the registration lists.

Section 2. Said sessions of the Board of Registrars in all such counties shall be in lieu of all other sessions now authorized by law.

Section 3. Should any part of this act be declared invalid, for any reason, then such invalidity shall not affect the validity of the remainder of this act.

Section 4. All laws and parts of laws in conflict herewith are hereby expressly repealed.

Section 5. This act shall become effective on the first day of October next after its passage.

Approved September 13, 1935.

No. 455)

(H. 755—Adams.

### AN ACT

To provide for, regulate, control and prohibit the ownership, use, operation and maintenance of passenger automobiles by all counties in this State having a population of 300,000 persons or more, according to the last or any subsequent federal census; to provide the terms and conditions under which officers, deputies, agents and employees of such counties may be provided with such automobiles by such counties, or may use the same and the storage thereof; to generally provide for the use, operation, maintenance, identification and general control of such automobiles so as to prevent fraud and imposition on such counties by those using the same, as well as others, and to provide punishment for the violation hereof.

*Be it enacted by the Legislature of Alabama:*

Section 1. This Act shall be effective only in counties having a population of three hundred thousand persons or more, according to the last or any subsequent federal census, and when the word "County" is used herein, it shall be understood as applying only to a county in such population class. By the word "automobile" as used herein is meant passenger automobile.

Section 2. No person who is a member of the governing board or body by whatever name it may be called of a County shall be provided at the expense of such County with a passenger automobile for either the public, private, or official use of such person. It shall be unlawful for such person to buy gasoline or other motor fuel or motor oil or automotive accessories, including tires, from such County. It shall be unlawful for such person to receive from such County an allowance in money or other thing of value in lieu of expenses incurred or to be incurred by such person for automobile transportation for himself or any other person whomsoever.

Section 3. It shall be unlawful for any member of such governing body to buy, or receive as a gift or otherwise, from such county, either directly or indirectly, any gasoline, oil, grease, automobile, or other article or commodity used or usable in connection with the automobiles, owned or controlled by such county, or to use the same except in the performance of his official duty or for any person connected with such County to vote for, or participate in, any such sale or disposition to such member.

Section 4. It shall be unlawful for any member of such governing body to vote for any allowance to be made to, or for the benefit of, a member of such governing body, for or on account of the use of any automobile owned or controlled by a member of such governing body, or for or on account of gasoline, oil or grease consumed or used by such automobile, or for or on account of any other cause connected with said automobile or the operation or maintenance thereof, and it shall also be unlawful for any member of such governing body to accept or receive any such allowance.

Section 5. The governing body of each such County is hereby charged with the duty of causing the outward surface of each passenger automobile owned or controlled by such county, except those devoted exclusively to the use of the Sheriff or his deputies, to be maintained, at all times while so owned or controlled, a bright yellow color, and also with the further duty of causing to be maintained upon the outer surface of each such automobile, in a conspicuous place and of different color, the unobscured name of such County in plain letters and figures at least four inches high, and it shall be unlawful for any person to drive or operate any such automobile while any of the aforesaid duties remain unfulfilled and unperformed. It shall also be unlawful for any person to drive or operate any such automobile, except one devoted exclusively to the use of the Sheriff or his deputies, during any time when his name is not conspicuously displayed on the outside of each said automobile in legible letters at least two inches high.

Section 6. When an automobile is designated or assigned or the custody thereof delivered to a given person or persons for use in

and about the County's business for a period longer than one calendar week, such assignment must be accomplished by formal resolution of the governing body of the County, which shall appear on its minutes, and no assignment shall be valid for more than one year from the date made.

Section 7. Any officer, agent, servant or employee of any such County, who for his own private use or purpose, or for the use or purpose of any person, firm or corporation other than such County, uses or authorizes any other person to use any automobile owned or controlled in whole or in part by such County, or any gasoline or other motor fuel, any motor oil, any tires, accessories, or automotive equipment belonging to such County in whole or in part, shall be guilty of a misdemeanor.

Section 8. Any passenger automobiles owned by such County, except those devoted exclusively to the use of the Sheriff or his deputies, shall be placed in the County's garage or barn at the close of each day's service, and there remain until removed therefrom for further use on the next business day. Such automobile shall also remain in such barn or garage during Sundays and Holidays and during any other period when not in use. It is provided, however, that in the event an officer or employee of the County to whom an automobile has been assigned, shall make and file an affidavit with the County's governing body that it is necessary in the performance of his duties for the County for him to keep or remove said car out of said garage or barn during all or a part of the time designated for said car to be kept in said garage or barn, and if such officer or employee request the County's governing body to authorize him so to do, the said governing body may, if it deems the request in the best interest of the County, by resolution so authorize and approve, but such approval shall not be effective for more than twelve months from the date given. The possession of an automobile owned or controlled by such County contrary to the provisions hereof is hereby declared to be a misdemeanor.

Section 9. Except as provided in Section 8 hereof it shall be unlawful for any officer, agent or employee of such County, or of any agency or instrumentality of such County, to store or garage upon his residence premises, or upon premises controlled by him, or at any place other than a central garage or barn of such County, any passenger automobile owned or controlled by such County, at any time when such automobile is not in actual use upon the business of such County.

Section 10. It shall be unlawful for any person or persons to use or operate, or permit the use or operation of, any automobile owned or controlled by any such County for any purpose other than the public business of such County.

Section 11. The doing of any Act herein declared to be unlawful, or herein prohibited, or the violation of any of the provisions hereof, or any intentional connivance at, or circumvention, or attempt to circumvent, the provisions of this Act, shall constitute a misdemeanor, and any one adjudged to be guilty thereof shall be punished by fine not exceeding five hundred (\$500.00) dollars, and may also be sentenced to hard labor for the County affected for not exceeding twelve months, one or both.

Section 12. If any provision, section, sentence, clause, or part of this Act, shall be held unconstitutional, or for any reason ineffective, it shall not affect or invalidate any of the remaining provisions of this Act. All laws or parts of laws inconsistent with the provisions hereof are hereby expressly repealed.

Section 13. This Act shall become effective at the expiration of thirty days after its enactment.

Approved September 13, 1935.

No. 456)

(H. 757—Connor.

### AN ACT

To provide for, regulate, control and prohibit the ownership, use, operation and maintenance of passenger automobiles by all cities in this State having a population of 200,000 persons or more, according to the last or any subsequent federal census; to provide the terms and conditions under which officers, deputies, agents and employees of such cities may be provided with such automobiles by such cities, or may use the same and the storage thereof; to generally provide for the use, operation, maintenance, identification and general control of such automobiles so as to prevent fraud and imposition on such cities by those using the same, as well as others, and to provide the punishment for the violation hereof.

#### *Be it Enacted by the Legislature of Alabama:*

Section 1. This Act shall be effective only in cities having a population of two hundred thousand persons or more, according to the last or any subsequent federal census, and when the word "City" is used herein, it shall be understood as applying only to a city in such population class. By the word "automobile" as used herein is meant passenger automobile.

Section 2. No person who is a member of the governing board or body by whatever name it may be called of a City shall be provided at the expense of such City with a passenger automobile for either the public, private, or official use of such person. It shall be unlawful for such person to buy gasoline or other motor fuel or motor oil or automotive accessories, including tires, from such City. It shall be unlawful for such official to receive from such City an allowance in money or other thing of value in lieu of expenses incurred or to be incurred by such

person for automobile transportation for himself or any other person whomsoever.

Section 3. It shall be unlawful for any member of such governing body to buy, or receive as a gift or otherwise, from such City, either directly or indirectly, any gasoline, oil, grease, automobile, or other article or commodity used or usable in connection with automobiles, owned or controlled by such City, or to use the same except in the performance of his official duty, or for any person connected with such City to vote for, or participate in, any such sale or disposition to such member.

Section 4. It shall be unlawful for any member of such governing body to vote for any allowance to be made to, or for the benefit of, a member of such governing body, for or on account of the use of any automobile owned or controlled by a member of such governing body, or for or on account of gasoline, oil or grease consumed or used by such automobile, or for or on account of any other cause connected with said automobile or the operation or maintenance thereof, and it shall also be unlawful for any member of such governing body to accept or receive any such allowance.

Section 5. The governing body of each such City is hereby charged with the duty of causing the outward surface of each passenger automobile owned or controlled by such City, except those devoted exclusively to the use of the fire or police departments, to be maintained, at all times while so owned or controlled, a bright red or crimson color, and also with the further duty of causing to be maintained upon the outer surface of each such automobile, in a conspicuous place and of different color, the unobscured name of such City in plain letters and figures at least four inches high, and it shall be unlawful for any person to drive or operate any such automobile while any of the aforesaid duties remain unfulfilled and unperformed. It shall also be unlawful for any person to drive or operate any such automobile, except one devoted exclusively to the use of the fire or police department, during any time when his name is not conspicuously displayed on the outside of each said automobile in legible letters at least two inches high.

Section 6. When an automobile is designated or assigned or the custody thereof delivered to a given person or persons for use in and about the City's business for a period longer than one calendar week, such assignment must be accomplished by formal resolution of the governing body of the City, which shall appear on its minutes, and no assignment shall be valid for more than one year from the date made.

Section 7. Any officer, agent, servant or employee of any such City, who for his own private use or purpose, or for the use

or purpose of any person, firm, or corporation other than such City, uses or authorizes any other person to use any automobile owned or controlled in whole or in part by such City, or any gasoline or other motor fuel, any motor oil, any tires, accessories, or automotive equipment belonging to such City in whole or in part, shall be guilty of a misdemeanor.

Section 8. Any passenger automobiles owned by such City, except those devoted exclusively to the use of the police and fire departments, shall be placed in the City's garage or barn at the close of each day's service, and there remain until removed therefrom for further use on the next business day. Such automobile shall also remain in such barn or garage during Sundays or holidays and during any other period when not in use. It is provided, however, that in the event an officer or employee of the City to whom an automobile has been assigned, shall make and file an affidavit with the City's governing body that it is necessary in the performance of his duties for the City for him to keep or remove said car out of said garage or barn during all or a part of the time designated for said car to be kept in said garage or barn, and if such officer or employee request the City's governing body to authorize him so to do, the governing body of the City may, if it deems the request in the best interest of the City, by resolution so authorize and approve, but such approval shall not be effective for more than twelve months from the date given. The possession of an automobile owned or controlled by such City contrary to the provisions hereof is hereby declared to be a misdemeanor.

Section 9. Except as provided in Section 8 hereof it shall be unlawful for any officer, agent or employee of such City, or of any agency or instrumentality of such City, to store or garage upon his residence premises, or upon premises controlled by him, or at any place other than a central garage or barn of such City, any passenger automobile owned or controlled by such City, at any time when such automobile is not in actual use upon the business of such city.

Section 10. It shall be unlawful for any person or persons to use or operate, or permit the use or operation of, any automobile owned or controlled by any such city for any purpose other than the public business of such city.

Section 11. The doing of any Act herein declared to be unlawful, or herein prohibited, or the violation of any of the provisions hereof, or any intentional connivance at, or circumvention, or attempt to circumvent, the provisions of this Act, shall constitute a misdemeanor, and any one adjudged to be guilty thereof shall be punished by fine not exceeding five hundred (\$500.00) dollars, and may be sentenced to hard labor for the City affected for not exceeding twelve months, one or both.



Section 12. If any provisions, section, sentence, clause, or part of this Act, shall be held unconstitutional, or for any reason ineffective, it shall not affect, or invalidate any of the remaining provisions of this Act. All laws or parts of laws inconsistent with the provisions hereof are hereby expressly repealed.

Section 13. This Act shall become effective at the expiration of thirty days after its enactment.

Approved September 13, 1935.

No. 457)

(H. 782—Connor.

### AN ACT

To require officers and employees of counties, cities and towns in Alabama to present itemized statements of expenses incurred while traveling and/or remaining beyond the limits of counties and municipalities while engaged in business incidental to the management or control of the affairs of the counties and municipalities and to prohibit the allowance and payment of such expenses unless itemized and approved; and to provide penalties for the violation of this Act.

#### *Be it Enacted by the Legislature of Alabama:*

Section 1. It shall hereafter be unlawful for any officer or employee of any county, town or city in Alabama to be reimbursed from the Treasury of any county, municipality or town expenses incurred by him while traveling and/or remaining beyond the limits of counties and municipalities in the performance of his duties incidental to the management or control of the affairs of such county or municipality unless said officer or employee presents and has approved as herein provided for an itemized statement of all expenses incurred.

Section 2. When a county or municipality is governed by a Commission form of government, such itemized statement shall be presented to the county or city comptroller or corresponding officer immediately upon the return of said officer or employee of such county or municipality and must be approved or disallowed at the next regular meeting of the city commission of such municipality. When a municipality is governed by a mayor and council, such itemized statement shall be presented to the treasurer of the city in similar manner as hereinabove provided for, and shall be approved or disallowed at the next meeting of the city council or county governing body.

Section 3. When any sum is advanced to an officer or employee of any county or municipality to be used to defray expenses incurred while traveling beyond the borders of the municipality or county, the itemized statement required as hereinabove provided for shall be presented immediately upon the return of such officer or employee to the county or municipality; and failure to

present and have approved such statement shall render such officer or employee personally liable to the county or municipality for the sum advanced, which sum shall, if such officer or employee is drawing pay for his services from the municipality or county be deducted from any sum then or in the future owed by the municipality or county to such officer or employee.

Section 4. No sum shall be advanced from the treasury from any municipality or county in this State for the purpose of defraying the expenses of any officer or employee of such municipality or county while traveling and/or remaining beyond the limits of such municipality or county unless the same shall first be allowed by a resolution adopted by the governing body of such municipality or county, which said resolution shall state the purpose and object of such proposed visit.

Section 5. Any officer drawing or approving any warrant drawn on the treasury of any municipality or county of this State in violation of the provisions herein contained, shall be guilty of a misdemeanor and shall be punished as provided by law.

Section 6. This Act shall not apply to police officers of any municipality.

Section 7. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed.

Section 8. This Act shall take effect immediately upon its approval by the Governor.

Approved September 13, 1935.

No. 460)

(H. 926—Waldrep

## AN ACT

To amend Section 392 of the Code of 1923, as amended by an Act approved August 20, 1927, so as to read as follows:

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 392 of the Code of Alabama of 1923 as amended by an Act approved August 20, 1927, be amended so as to read as follows: Section 392. **TIMES FOR PURGING LIST OF REGISTRATION.** The board of registrars shall meet in each county on the first Monday in January, 1936, and every two years thereafter, for purging the registration list, and may continue in session one week. The names of those who have died, become non-residents of the State, become insane, and been so declared by inquisition of lunacy, or who have been convicted of any offense mentioned in Section 182 of the constitution, since being registered, or otherwise disqualified as electors under the provision of the constitution, and any names which may have been fraudulently entered on such list, shall be stricken from the regis-

tration list. Any member of the board of registrars who neglects or willfully refuses to perform the duties herein required of him shall be guilty of a misdemeanor and on conviction, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), and may also be imprisoned in the county jail, or sentenced to hard labor for the county, for not more than six months. That when said Board of Registrars have sufficient evidence furnished them that any elector has permanently moved from one precinct to another in any County said Board of Registrars shall transfer the name of such elector to the registration list of the precinct to which such elector has moved.

Approved September 13, 1935.

No. 462)

(H. 951—Wallace.

### AN ACT

To amend Subdivision 3 of Section 231 of the Code of Alabama of 1923, as amended by Act approved June 6, 1935.

*Be it enacted by the Legislature of Alabama:*

Section 1. That subdivision 3 of Section 231 of the Code of Alabama of 1923, as amended by Act approved June 6, 1935, be amended so as to read as follows: 3. Claims for necessary stationery and office supplies, including typewriters and supplies and telephones and telephone services, for offices of the Probate Judge, Clerk and Register and Court Reporters and Tax Collector; and claims of the Secretary of State for certified copies of field notes.

Approved September 13, 1935.

No. 463)

(H. 986—Hendley

### AN ACT

To provide plans of apportionment and distribution of school funds by county boards of education to boards of education of independent cities in the county.

*Be it enacted by the Legislature of Alabama:*

Section 1. APPORTIONMENT OF STATE AND COUNTY FUNDS TO INDEPENDENT CITIES.—That the county board of education shall apportion annually to each city board of education in the county a sum sufficient, when added to the proceeds of the special three mill district school tax in the city and to any state funds apportioned to the city board of education hereinafter indicated, to provide a uniform minimum educational program for each city equivalent to the minimum program for the county as

hereinafter provided, each uniform minimum educational program to be determined on the same basis as the minimum program for the county including the cities, is determined by the State Board of Education for the current year. The county board of education in apportioning funds for such uniform minimum program in any city shall make no deductions because of local funds or special local tax levies, which may, in addition to the three mill district tax, or its equivalent, be available to such cities, and which additional funds have not been employed by the State Board of Education in apportioning funds to any county in connection with the State Minimum Program. The minimum amount which shall be apportioned to a city board of education shall be determined as follows: 1. Find the Receipts Available to Each Board of Education to Meet the Cost of the Uniform Minimum Program.—Find the total receipts which are or should be available to meet the cost of the uniform minimum program in the county and in the various cities within the county. The sources of such receipts which shall be considered available to each board of education are as follows: a. To City Boards of Education in Independent Cities.—The proceeds from three mills of the district **school tax, whether such tax is levied or not, and any state funds** except for vocational education which are apportioned directly to the city board of education; these funds being available only for use in or by the city are not apportionable funds. b. To the County Board of Education.—(1) The proceeds from the special three-mill district school tax in all districts covering the entire county outside of the independent cities, whether such tax is levied or not; this fund, being available and expendable only for the districts in which it is levied, is not an apportionable fund. (2) The proceeds from the special county-wide three-mill school tax; from the special county-wide one-mill school tax if levied, or as if levied, throughout the county; from the poll tax; from any other county-wide taxes for school purposes; and from all state appropriations and apportionments except for vocational education made to the county board of education for elementary and high schools. These funds are apportionable funds except as the use of any state appropriation may be restricted by legislative enactment. c. To all Boards of Education in the County.—Find the receipts available to all boards of education in the county to meet the cost of the uniform minimum program by finding the total of such receipts directly available to each city board of education (subsection 1-a) and to such receipts available to the county board of education, including both non-apportionable (subsection 1-b-(1) ) and apportionable receipts (subsection 1-b-(2) ). 2. Find the monthly Current Expense Cost of the Uniform Minimum Program for Each School System.—The monthly current expense cost of the uniform

minimum program shall be computed separately for each city board of education and for the county board of education. The costs as computed under regulations of the State Board of Education for the state minimum program shall be used unless the board of education of the county and the boards of education of the independent cities sign a mutual agreement and secure the approval of the State Superintendent of Education to use some other plan involving desirable special adjustments, but which does not violate the fundamental principles of equalization of educational opportunity.

3. Find the Minimum Amount to be apportioned to Each City Board of Education.—The minimum amount which shall be apportioned during the year to each city board of education in the county shall then be determined in the following manner: a. Find the proportion which the monthly current expense cost of the uniform minimum program for each city is of the total monthly current expense cost of the uniform minimum program for the entire county including the independent cities. (subsection 2.). b. Multiply the ratio between the monthly current expense cost of the uniform minimum program in any city and the total monthly current expense cost of the uniform minimum program in the entire county including the cities found as provided in subsection 2 above, by the receipts which should be available to all boards of education in the county to meet the cost of the uniform minimum program (subsection 1-c above) less any funds allotted in the state minimum program to the county board of education for capital outlay purposes. This multiplication will give the total funds (including proceeds from the special three-mill district school tax and from any state appropriation) which should be available to the city board of education during the year for its uniform minimum program. C. The amount which the county board of education shall apportion to that city board of education for the entire year, unless otherwise approved by the State Superintendent of Education, shall then be found by subtracting the funds which should be directly available to that city board (subsection 1-a above) from the total funds which should be available to that city board during the year for its uniform minimum program (subsection 3-b above); provided an adjustment approved by the State Superintendent of Education shall be made in apportioning funds to any city in which the one-mill county tax is not being levied and collected.

Section 2. MONTHLY DISTRIBUTION OF FUNDS REQUIRED.—On or before the tenth day of each month during the year the county board of education shall make a distribution of funds to the board of education of each independent city within the county, said distribution to be determined as follows, provided that the distribution for the last month of the fiscal year shall not be made until the last apportionment of state school funds has

been made for that fiscal year: 1. Find the net funds to be apportioned during the year by the county board of education by subtracting from the total apportionable funds (Section 1, subsection 1-b-(2) ) any funds allotted in the state minimum program to the county board of education for capital outlay purposes. 2. Find the proportion which the total funds to be apportioned during the year by the county board of education to any city board of education (Section 1, subsection 3-c above), is of the net apportionable funds which are or should be available to the county board during the year (subsection 1 above). 3. Multiply the net apportionable funds which have been received by the county board of education since the last previous distribution (that is, funds received during the month) by this ratio found as provided in subsection 2. This multiplication gives the amount which shall be paid to the city board of education on that distribution. 4. At the time of the final monthly distribution for the year an adjustment shall be made when actual receipts have been materially different from anticipated receipts; such adjustment to be made so that the apportionment for the year is based on actual receipts from funds included in the program as hereinbefore provided.

**Section 3. CONSTITUTIONALITY.**—If any section or provision of this act is declared unconstitutional, it shall not affect the remaining section or provisions.

**Section 4. REPEAL OF CONFLICTING LAWS.**—All laws and parts of laws, general, special, or private, in conflict with the terms and provisions of this act are hereby repealed.

**Section 5. EFFECTIVE DATE.**—This act shall become effective upon passage by the Legislature and approval by the Governor and when the Minimum Program for the elementary and high schools of the State become effective.

Approved September 13, 1935.

No. 467)

(H. 1030—Sightler

## AN ACT

To require the tax assessors and tax collectors of the several counties in this State having a population of not less than 75,000 nor more than 110,000 people, according to the last or any succeeding Federal Census, in addition to assessing and collecting the ad valorem taxes due the State and said counties on motor vehicles, to collect the ad valorem taxes on motor vehicles due all cities and municipalities in such counties; to provide for reports and payments of collections by tax collectors; and to fix compensation of said assessors and collectors for the performance of their duties under this Act, which shall be in addition to compensation now received by them for assessing and collecting taxes for the State and such counties; and to repeal all laws or parts of laws, general or local in conflict with this Act.

*Be it enacted by the Legislature of Alabama:*

Section 1. That it shall be the duty of the county tax assessors and county tax collectors of this State in all counties having a population of not less than 75,000 nor more than 110,000 people, according to the last or any succeeding Federal Census, in addition to assessing and collecting the ad valorem taxes due the State and said counties on motor vehicles, to collect the ad valorem taxes on motor vehicles due all cities and municipalities in such counties.

Section 2. Said tax collectors shall report and pay over the money collected under this Act for said counties and municipalities at the same time and in the same manner as State and County taxes are reported and paid over by him.

Section 3. Said assessors and collectors shall each receive a commission of  $2\frac{1}{2}\%$  of the amount of city or municipal taxes collected, and the tax collectors shall deduct said commissions from the amount collected before paying into the treasury of such cities or municipalities, and at the same time pay over to the tax assessor commissions due him under this Act. The commissions paid to the said assessors and collectors for performance of the services as required under this Act shall be in addition to any salary or compensation now received by them from the State or any of such counties.

Section 4. That all laws or parts of laws, local or general, in conflict with the provisions of this Act shall be and the same are hereby repealed.

Approved September 13, 1935.

No. 468)

(H. 1039—Castleberry.

AN ACT

To provide a method for filling vacancies which now exist on boards of revenue, or like bodies, in the counties of Alabama; to provide for an election or elections and the holding of same.

*Be it enacted by the Legislature of Alabama:*

Section 1. That in any county in the State of Alabama where a vacancy now exists on a board of revenue, or like body, and the law provides that such vacancy must be filled by the remaining members of said body, and more than sixty days have elapsed since the occurrence of the vacancy and a majority of said remaining members have failed to agree on a person to fill same, and no provision is now made by law for the filling of such vacancy in such event, then it shall be and hereby is made the duty of the Governor of Alabama to call a special election or elections at which voters may elect a person to fill such vacancy.

**Section 2.** That if, at the time of the passage and approval of this act, such vacancy as herein described exists in any county, the Judge of Probate of said county in which such vacancy exists shall certify the same to the governor within five (5) days following the approval of this act, and the governor shall, within ten (10) days following the approval of this act, call for an election or elections to be held according to the provisions of this act, for the purpose of filling such vacancy.

**Section 3.** That if the law for any county where the above condition exists provides for election of members of the board of revenue, or like body, by districts, then said election or elections shall be held only in the district not now represented on said board or body because of such vacancy; if the law for any county where the above condition exists provides for the election of members of the board of revenues, or like body, by the county-at-large, then said election or elections shall be held in the entire county.

**Section 4.** That the special election or elections above provided for shall be held in accordance with the general election laws of the State of Alabama, except as otherwise provided in this Act.

**Section 5.** That all expenses of said election or elections shall be paid out of the general fund of the county in which said election or elections are held.

**Section 6.** That if any section, paragraph or provision of this act shall be held invalid, such holding shall not invalidate the remaining sections, paragraphs or provisions.

**Section 7.** All laws and parts of laws, general, special and private, in conflict with this Act be and the same are hereby expressly repealed.

**Section 8.** That this act shall become effective upon its approval by the governor.

Approved September 13, 1935.

No. 472)

(H. 409—Davis.

## AN ACT

To regulate the business and trade of plumbing in all counties of this State having a population of 80,000, or more, according to the last or any subsequent Federal Census, to create a Board to be known as the Board of Plumbers Examination and Registration of Alabama; to provide for the appointment of the members of said Board of Plumbers Examination and Registration of Alabama, and to provide for the appointment of successors of the members thereof, and for the organization of said Board and for the remuneration of the members and officers thereof; to specify the powers and duties of said Board of Plumbers Examination and Registration and provide the ways and means of collecting funds for its maintenance and functioning: to define the terms "plumbing"



"master plumber" and "journeyman plumbers" for the purposes of this Act; provide for the examination, registration and licensing of master plumbers and journeyman plumbers engaged, engaging or desiring to engage in the business or handicraft of plumbing within such counties and fix the fees to be assessed of applicants for examination, registration and licensing of such master plumbers or journeyman plumbers and for the renewals of such registration and licenses; to authorize and empower said Board of Plumbers Examination and Registration of Alabama to conduct investigation and hearings of and concerning violations of this Act and to grant unto said Board of Plumbers Registration and Examination the power and authority to revoke after hearing, any licenses issued by said Board on account of any violations or violation of any provision or provisions of this Act by any master plumber or journeyman plumber, who may violate any of the provisions of this Act, and to provide further penalties for any violation or violations of the provisions of this Act, and to provide for appeal to the various Circuit Courts of Alabama by any aggrieved person from any order ruling, decree or revocation of such license by said Board of Plumbers Examination and Registration of Alabama and to provide for a seal and its use by said Board; and also to repeal all laws in conflict herewith.

*Be it enacted by the Legislature of Alabama:*

Section 1. That a Board to be known as a Board of Plumbers Examination and Registration of Alabama is hereby created, said Board to consist of nine members who shall be appointed by the Governor of Alabama. Four of said members shall be master plumbers as defined by this Act; four shall be journeyman plumbers as defined by this Act; and one shall be a duly qualified Health Officer of Alabama or of some political subdivision thereof, or of a sanitary or civil engineer engaged in the public health work in Alabama. There shall be a list submitted to the Governor containing the names of eight licensed Master plumbers, eight journeyman plumbers and a list of two Health Officers or sanitary or civil engineers submitted by the State Board of Health and the Governor shall appoint the members of the Board from said lists.

Section 2. That each member of said Board of Plumbers Examination and Registration of Alabama shall serve for a term of four years and until his successor is duly appointed and qualified except as hereinafter specified. An unexpired term of any member of said Board caused by death, resignation or otherwise shall be filled by appointment of the Governor of Alabama. Of the first appointee hereunder two journeyman plumber and two master plumber shall be appointed for a term of two years, two journeyman plumber and two master plumber for a term of three years and the remaining member for a term of four years.

Section 3. That the members of said Board shall, within ninety days after their appointment, meet at the capitol building in Montgomery, Alabama, and shall organize and elect for a term of one year, one of their members as president of said Board and another

of their members secretary-treasurer of said Board and thereafter shall meet in regular annual session on the first Monday after January 1st, of each year in the capitol building in Montgomery, Alabama; and special called meetings of said Board may be held upon the written request of any two or more members of the Board handed to the secretary-treasurer who shall within twenty-four hours thereafter in writing notify all members of the Board of said special called meeting of the Board and such special called meetings of the Board shall be called to convene at 12:00 o'clock noon at place such as specified in call, within not more than ten days, nor less than five days from and after the date upon which said request of said two or more members for said special called meeting is handed to the secretary-treasurer. Five members of the Board shall constitute a quorum for the transaction of any business which may come before the Board, whether said meeting be a regular annual meeting or a special called meeting. The Board is hereby authorized and empowered to make such reasonable rules and provide such printed forms to be used as shall be necessary to govern its proceedings and to effectuate the provisions of this Act. The secretary-treasurer of the Board shall keep a detailed record of the proceedings of all meetings of the Board and shall also keep and maintain an official register of all applicants for examination, registration and license. Said official register shall show the name, age, nativity, date of application and date of examination and the date of license of such said applicants as shall have submitted themselves for examination and have been duly licensed. And said official register shall show said applicant was examined where and when such examination was held and whether or not said applicant was licensed or was rejected and refused license by said Board, and said official register or a copy of the proceedings therein relative to any person, thing or matter and duly certified to by the secretary-treasurer under the official seal of the Board thereto affixed shall be prima facie evidence of all matters relating to the records contained in said official register; and said official register shall at all reasonable times be open to the public; and of its contents the secretary-treasurer shall be required to certify as aforesaid upon the written request of any person who shall pay to the secretary-treasurer of the Board a fee of one dollar (\$1.00) for each and every page or portion of a page of said official register which the secretary-treasurer shall be so requested to furnish and to certify. The official seal of the Board herein referred to shall include the words "Board of Plumbers Examination and Registration of Alabama, Official Seal" and shall be affixed by impressed imprint to such documents as are required by this Act to bear said seal.

Section 4. The word "plumbing" within the meaning and for the purpose of this Act shall be held to mean and include: (a) All piping, fixtures, appliances and appurtenances in connection with the drainage, ventilation of the same or water supply system within a building, residence or structure to a point from three to five feet outside of the same. (b) The construction and connection of any drain or waste pipe carrying domestic sewerage from a point within three feet to five feet of the outside walls of any building, residence or structure with the sewer service or other disposal terminal, and the alteration of any such system drain or waste pipe, except the construction of sewer mains and branches by public utilities or municipalities where the responsibility is their's or assumed by them. (c) The water service piping from a building, residence or structure to the mains in street, alley or other terminal, except the tapping of water mains, the service to the street, curb or building line, the setting of meters and boxes by public utilities or municipalities where the responsibility is their's or assumed by them. (d) A plumbing and drainage system so designed and vent piping so installed as to keep the air within the system in free circulation and movement, and to prevent with a margin of safety unequal air pressure of such force as might blow, siphon or effect trap seals, or retard the discharge from plumbing fixtures or permit sewer air to escape into the building, residence or structure. A "journeyman plumber" within the meaning and for the purpose of this Act shall be held to mean and to include any person other than a master plumber, who, as his principal occupation, is learned in the actual, practical, physical installation of plumbing as a handicraft or trade. A "master plumber" within the meaning and for the purposes of this Act shall be held to mean and to include any person, firm or corporation engaged in or proposing to engage in the business of contracting to do or superintending the installation of plumbing, either or both; but if such applicant for registration be an individual, he must either qualify himself to be a licensed master plumber or must continually keep in his active employ a duly registered and licensed master plumber; and if such licensee be a firm or corporation, at least one active member of such firm or corporation must be a duly registered master plumber, actively continuously connected with the conduct of said business.

Section 5. That each of the members of said Board of Plumbers Examination and Registration of Alabama shall be paid as compensation for their services the sum of eight (\$8.00) per day and every day necessarily spent in active service in connection therewith and in performance of their official duties as such together with the necessary reasonable expenses in the discharge of their said official duties; and in addition thereto the secretary-treasurer of said

Board shall receive such additional compensation for his service as secretary-treasurer as shall be fixed by said Board, not to exceed fifteen hundred (\$1500.00) dollars per annum. The same to be paid in monthly installments. Said expenses of the members of the Board and said additional compensation of the secretary-treasurer shall be paid out of the funds received by the Board as provided for by this Act. No part of the compensation of said Board members or of said secretary-treasurer and no part of any other expenses of said Board shall be paid out of the State Treasury. All moneys received by the Board in excess of said compensation and expenses of the Board shall be held by the secretary-treasurer of the Board to be used in meeting the other necessary expenses of the Board including the cost of publication of the annual reports of the Board and such other expenses of the Board as shall be reasonably incident to the carrying out of the provisions of this Act.

Section 6. The secretary-treasurer of the Board shall before entering on the duty of his office make and file with the Secretary of State an official bond in the sum of Five thousand (\$5,000.-00) **dollars premium on the same to be paid out of the funds of said Board**, said bond must be executed by some approved bonding or guaranty company acceptable to the Board.

Section 7. The individual members of the Board may, when such member deems it expedient, issue temporary revocable permits to persons applying for permission to be examined and licensed either as a master plumber or as a journeyman plumber. The application for such temporary revocable permit shall be made upon proper blanks prepared by the Board and signed by the applicant setting forth under his oath his age, color, place of birth, post office address and such other information as the Board shall reasonably require. Said temporary revocable permit shall entitle its holder to engage in the business of master plumber or in the trade of journeyman plumber, as the case may be, only until the next examination of applicants shall be held by the Board, and shall be subject to revocation by the Board because of error or fraud in its issuance or incompetency of the holder whereof as in the case of the revocation of the regular licenses issued by the Board and in the same way and manner after citation of the holder thereof and proper hearing. Any person heretofore not required to be licensed and who on date of passage of this Act was engaged or worked at the business of master plumber and who is required to be licensed under this Act, shall, upon furnishing the Board with satisfactory evidence of having been so engaged on said date, and of having the necessary qualifications, shall be granted a master plumber's or journeyman plumber's license without examination provided he

makes application prior to January 1, 1936 and pays the prescribed fee.

Section 8. Application for a license either for a master plumber or for a journeyman plumber must be made to the Board upon printed blanks furnished by the Board, such blanks to contain spaces thereon to be filled in by the applicant showing his name in full, his age, nativity, color, and place of residence or employment and the length of time he has been engaged in the practice of the calling and with whom for which he seeks license and shall have posted thereon in a space set aside therefor a recent photograph of the applicant, and said application shall be signed by the applicant for registration and license of a master plumber shall be accompanied by a fee of fifteen (\$15.00) dollars and each such application for a registration and license as a journeyman plumber shall be accompanied by a fee of five (\$5.00) dollars. If the applicant successfully stands the examination required of him by the Board, the secretary-treasurer shall officially register such successful applicant and a license to practice the business of master plumber or the trade journeyman plumber, as the case may be, and such license shall entitle the holder thereof to engage in such business or trade until and including the 31st day of the next following December. Such license shall be renewed without application or examination upon the first day of January, unless same be a legal holiday or shall fall upon the first day of the week, commonly called Sunday, and in either event shall then be issued upon the second day of January or the next succeeding week-day January 1st upon the payment by such licensed master plumber of a renewal fee of ten (\$10.00) dollars and upon the payment by such licensed journeyman plumber of a fee of two dollars and fifty cents (\$2.50) but no licensed master plumber or journeyman plumber may have his license renewed later than January 31st, unless he pay the full fee for registration and license of fifteen (\$15.00) dollars for a master plumbers or five dollars for a journeyman plumbers as the case may be provided any applicant for a license herein provided for who is denied such license by the Board may appeal from such decision of the Board to the Circuit Court of the County in which he lives, does business or is employed.

Section 9. Every holder of a master plumber's license and who is engaged in such business in Alabama shall display in a conspicuous place at the entrance of his place of business a sign bearing his name and the words "Licensed Master Plumber" in letters not less than three inches high, no person, firm or corporation other than a licensed master plumber shall use or display the title "master plumber" or "Licensed Master Plumber" or shall append his name to such title or use in connection with his name or busi-

ness any other similar title or words which may represent or tend to represent such person, firm or corporation as being a licensed master plumber.

Section 10. The Board, on its own initiative or upon written complaint lodged with the Board and signed by the person making such complaint may make investigation and conduct hearing with reference to any violations of any of the provisions of this Act. If the Board finds as a result of such hearing that the holder of a license has obtained same through error or fraud, is incompetent or has willfully violated any of the provisions of this Act, the Board shall forthwith revoke said license; but no hearing of such complaint against any licensee hereunder shall be held until such licensee shall have had at least ten days notice of such hearing, said notice to be given to such licensee by serving upon the licensee a copy of the complaint in writing. Said complaint and notice of hearing shall state the time and place of hearing which must be held within the plumbing district in which said licensee resides, is in business or is employed. Said notice and complaint shall be served upon the licensee complained against by a member of the Board or by the Sheriff of the County in which said licensee resides, does business or is employed, and return of said service made to the Board as in the case of the service of process in civil suit. Within ten days after such service of said complaint the licensee complained against may file answer thereto with the Board, and said hearing shall be public. The testimony adduced at said hearing along with all of the other proceedings shall be taken down by a competent stenographer, and shall be preserved as a record of the Board, and shall be open to public inspection at all reasonable times. No licenses shall be issued to any licensee whose license shall have been revoked by the Board after such hearing until one year from and after the date of such revocation unless the licensee whose license shall have been so revoked shall enter into a bond with good and sufficient sureties in the penal sum of one thousand dollars (\$1,000.00) to faithfully comply with the provisions of this Act, provided, however, that such licensee whose license shall be so revoked may within five days after such revocation appeal from the Board's decision or revocation to the Circuit Court of the County in which said licensee resides, does business or is employed.

Section 11. Each and every applicant for registration and license as a master plumber shall be examined by the Board as to his knowledge and skill in supervising, controlling, doing or performing plumbing in a sufficient number of questions to thoroughly test his knowledge and fitness to be a registered and licensed as a master plumber. Each and every applicant for registration and license as a journeyman plumber shall be examined by the Board

in a sufficient number of questions to thoroughly test his knowledge and fitness to do practical plumbing work, and in addition thereto, the Board may require such applicant as journeyman plumber to do and perform such actual practical physical tests as shall be deemed by the Board expedient. Said examination, both as to the questions and answers, shall be as far as practicable, be in writing; but should it become apparent to the Board that injustice would be done any particular applicant as a journeyman plumber to require him to answer the questions in writing, the Board may submit the questions to such applicant orally, and his answers thereto may also be oral. The Examinations the Board shall prescribe shall be of a uniform, fair and impartial nature, so as to test the knowledge, skill and ability of each applicant for registration and license.

Section 12. It shall be unlawful for any person to do or perform, or to contract, direct or superintend any plumbing done within any incorporated town, village, city in any such county in the State of Alabama unless regularly licensed so to do as provided by this Act.

Section 13. Any person who shall engage in the business of master plumber, or in the trade of journeyman plumber for compensation valuable consideration or reward in any such county without first obtaining the license required by this Act, or who shall violate any other provision of this Act, or who shall knowingly and willfully make any false statement to the Board concerning his application to or his examination by the Board, with intent to deceive shall be guilty of misdemeanor, and in addition to the revocation of his license by the Board, shall be fined not less than ten (\$10.00) dollars, and not more than five hundred (\$500.00) dollars for each offense, and each days violation shall constitute a separate offense.

Section 14. All laws and parts of laws in conflict with any provision of this Act are hereby repealed.

Section 14-1/2. The provisions of this Act shall not apply to counties of this State having a population of less than 80,000, according to the last or any subsequent Federal Census.

Section 15. This Act shall take effect sixty days after its approval by the Governor.

Approved September 13, 1935.

## AN ACT

To amend Section 8 of an Act entitled "An Act creating and Establishing Juvenile Courts in all Counties of the State of Alabama now having or which shall hereafter have a population according to the last federal census of not less than 95,000 and not more than 175,000, defining their powers and jurisdictions and providing for the process and procedure of said Courts; for the equipment of said courts, for the Judge and officers of the courts; Their term of office and their salaries, and defining their duties and the payment by the Board of Revenue and Road commissioners, or by whatever name they shall be known of said Counties of all premiums that may accrue on account of the bond of the Clerk thereof; for the transportation of Probation Officers, for the service of process, including warrants and the fees thereof and the payment of said fees; for the detention of juvenile delinquents and dependents and neglected children, providing for a commission to aid in carrying out the work of the courts and prescribing its duties, and providing for appeals from any order or judgment of said courts; making it an offense for any person knowingly and wilfully to encourage, aid, abet, cause a state of delinquency or dependency of any child under sixteen years of age, or produce, promote or contribute to the conditions which render any child delinquent or dependent and providing punishment therefor; providing for the transfer of certain cases to said Juvenile courts; providing for the apprehension of such children and persons and the committment of children to any family, association or institution; for the transportation of such children and the payment of cost by said counties; providing for the committment of juvenile delinquents and dependants to any family, association or institution within the State to which they may be respectively committed and providing for the payment of the cost thereof by the Board of Revenue and Road Commissioners, or by whatever name they shall be known of said Counties, providing for the payment by the cities or towns in which said courts are established of one half of the expenses arising out of the operation of said courts, and for the protection of said children against disqualification or prejudice in other courts in the civil service of the State or municipality on account of any judgment or order of said court or any confession, statement, declaration or admission or silence or demeanor of said juveniles, and provide for the repeal of certain laws," approved September 9, 1927, as amended by an Act approved April 21, 1931, so as among other things to amend the title and section I thereof, and as further amended by an Act approved April 17th, 1933.

*Be it enacted by the Legislature of Alabama:*

Section 1. That section 8 of the Act entitled "An Act creating and establishing Juvenile Courts in all Counties in the State of Alabama now having or which shall hereafter have a population according to the last federal census of not less than 95,000 and not more than 175,000 defining their powers and jurisdictions and providing for the process and procedure of said courts; for the equipment of said courts, for the Judge and officers of the courts; their term of office and their salaries, and defining their duties and the payment by the Board of Revenue and Road Commissioners, or



by whatever name they shall be known of said Counties of all premiums that may accrue on account of the bond of the clerk thereof; for the transportation of Probation Officers, for the service of process, including warrants and the fees thereof and the payment of said fees; for the detention of juvenile delinquents and dependents and neglected children, providing for a commission to aid in carrying out the work of the courts and prescribing its duties, and providing for appeals from any order or judgment of said courts; making it an offense for any person knowingly and wilfully to encourage, aid, abet, cause a state of delinquency or dependency of any child under sixteen years of age, or produce, promote, or contribute to the conditions which render any child delinquent or dependent and providing punishment therefor; providing for the transfer of certain cases to said Juvenile courts; providing for the apprehension of such children and persons and the commitment of children to any family, association or institution; for the transportation of such children and the payment of cost by said counties; providing for the commitment of juvenile delinquents and dependents to any family, association or institution within the State to which they may be respectively committed and providing for the payment of the cost thereof by the Board of Revenue and Road Commissioners, or by whatever name they shall be known of said counties, providing for the payment by the cities or towns in which such courts are established of one half of the expenses arising out of the operation of said courts, and for the protection of said children against disqualification or prejudice in other courts in the civil service of the State or municipality on account of any judgment or order of said court or any confession, statement, declaration or admission or silence or demeanor of said juveniles, and provide for the repeal of certain laws," approved September 9, 1927, as amended by an Act approved April 21, 1931 so as, inter alia, to make the Act applicable to all counties in the State of Alabama then having or which should thereafter have, a population according to the last Federal Census of not less than 100,000 nor more than 175,000, and as further amended by an Act approved April 17, 1933, be and the same is hereby amended so as to read as follows:—Section 8. APPOINTMENT OF CLERK, DUTIES, SALARY, BOND, TERM, CHIEF PROBATION OFFICER, SALARY, TERM, OTHER PROBATION OFFICERS, SALARIES, TERMS. There shall be a Clerk of said Courts who shall administer oaths, issue process and writs from Courts and papers from the Judge, file and keep all books, records, papers and other property pertaining to the Courts, prepare papers for appeals from the Courts, perform all other duties in connection with said Courts or Judge as said Courts or Judge may from time to time require of him, and he shall be and remain

under the supervision and direction of the Judge and obey all his instructions. The clerk shall be appointed by the Judge and hold office at the will of the Judge appointing him, and hold during such Judge's tenure. The Clerk may be a woman. The clerk shall be paid a salary of fifteen hundred dollars per year, or at the rate for the time he or she serves, said salary to be paid in twelve equal monthly installments out of the general fund of the Counties in which said Courts are located and exercise their jurisdiction. Before entering upon his duties the Clerk shall execute bond with such sureties as the Judge may prescribe in a penalty of not less than one Thousand dollars, payable to said County with condition of faithful discharge of the duties of Clerk during incumbency and to properly account for all moneys or property that may come into his hands as Clerk and conditioned otherwise as may be prescribed by the Judge who shall approve the bond and deliver it to the County Treasurer of said Counties for safe keeping. Suits may be brought upon it by any one aggrieved by its breach until its penalty is exhausted. All necessary original and renewal premiums on the Clerk's bond shall be paid by the Counties. There shall be a Chief Probation Officer, a male probation officer specially charged with the service of process of the said courts along with his other duties, and a colored probation officer, both of whom shall be under the Chief Probation Officer, and as many others as may be necessary and proper in order to perform the duties made necessary by the business of the Courts, All appointments shall be as specified under subdivision (b) of section number 2 of this Act. In the event of the appointment of additional probation officers to the ones herein specified, the salaries of said additional probation officers shall be fixed by the Juvenile Court Commission, subject however to the approval of the said Board of Revenue and Road Commissioners, or by whatever name they shall be known, of the Counties and the Board of City Commissioners or other governing boards of City within which said Court is operating and exercising its jurisdiction. The probation officers, except as stated above, may be men or women. The salary of the Chief Probation Officer shall be Eighteen Hundred Dollars (\$18.00) per annum, the salary of the male probation officer shall be Eighteen Hundred Dollars (\$1800.00) per annum, and the salary of the colored probation officer shall be Twelve Hundred Dollars (\$1200.00) per annum, all payable in twelve equal monthly installments out of the general fund of the County Treasury, but it shall be the duty of each of the said three probation officers, respectively, out of their said salaries, respectively to furnish for himself or herself such suitable automobile transportation, including car, upkeep, gasoline and oil, as may be reasonably necessary, proper or convenient to the proper performance of their duties as such probation officers, respectively.

Section 2. That all laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

Section 3. That this Act shall go into effect upon enactment.

Approved September 13, 1935.

No. 475)

(H. 911—Harrison.

## AN ACT

To provide for a public corporation for the purpose of constructing or causing to be constructed public roads and bridges in this State; to prescribe its powers and duties and to provide for the raising of necessary funds for such purpose and to provide for the payment of the cost of construction of such roads and bridges and to borrow money and match Federal funds for public work construction and to issue bonds, warrants, assignments, transfers or securities and to contract with the State Highway Commission of Alabama, the Public Works Administration and any other branch of Federal Government or other authorities necessary to carry out the purposes of this Act.

*Be it Enacted by the Legislature of Alabama:*

Section 1. That the three members of the State Highway Commission of Alabama may become a corporation with the power and authority herein defined by proceeding according to the provisions of this Act.

Section 2. To become a corporation, the said three persons and the Governor shall present to the Secretary of State of Alabama an application signed by them, which shall set forth: (a) The name, official designation and official residence of the applicants, together with a certified copy of the commission evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire to become a Corporation under this article; (b) The term of office of the applicants, and the place where, if any, the official commission of applicants is kept of record; (c) The name which is proposed for the corporation; (d) The location of the principal office of the proposed corporation, (which shall be Montgomery, Alabama); (e) Any other matter relating to the corporation which the applicants may choose to insert, not inconsistent with the Constitution and laws of the State of Alabama. The application shall be subscribed and sworn to by each of the applicants before an officer authorized by the laws of the State of Alabama to take and certify oaths, who shall certify upon the application that he personally knows the applicants and believes them to be the officers as asserted in the application, and that they each subscribed and swore thereto in the officer's presence. The Secretary of State shall examine the application and if he finds that the name proposed for the corporation is not identical with that of a person or of any other corporation in this State, or so nearly similar thereto as to lead to confusion and uncertainty,

he shall receive and file it, and shall record it in an appropriate book of record in his office.

Section 3. When the application has been made, filed and recorded, as herein provided, the applicants shall constitute a corporation under the name proposed in the application; the Secretary of State shall make and issue to the applicants a certificate of incorporation, pursuant to this act, under the seal of the State and shall record the same with the application.

Section 4. The corporation under this Act shall have the following powers: (a) To have succession by its corporate name for twenty years. (b) To sue and be sued and defend, and to make and use a corporation seal and to alter the same at pleasure. (c) To receive, take and hold by sale, gift, lease, devise or otherwise, real and personal estate of every description, and to manage and dispose of the same by any form of legal conveyance or transfer, with full power and authority to borrow money and to convey by mortgage or deed of trust; to acquire, hold, purchase, receive by bequest or devise, and to convey or otherwise dispose of all such real, personal and mixed property as may be necessary or convenient for the construction of roads and bridges and approaches thereto in the State of Alabama, or for constructing roads and bridges in the State of Alabama; to borrow money, to issue notes, bonds assignments, warrants, debentures or mortgage, pledge or otherwise convey its property or proceeds of appropriations to secure the payment of money received by such corporation. (d) To appoint and employ such officers and agents as the business of the corporation may require. (e) To wind up and dissolve itself, or be wound up and dissolved in the manner in this Act provided.

Section 5. The main purpose of the corporation shall be to construct or participate in the construction or lend their aid in construction or contract for construction or finance the construction of roads and bridges in the State of Alabama, as well as the approaches thereto.

Section 6. One-twelfth of the excise tax on gasoline as levied in Schedule 156.1 and defined in Schedule 156 of Chapter Four, Article XIII of House Bill 324 (Act No. 194 of the Alabama Legislature approved July 10, 1935) shall for a period of five years from the date of approval of this Act be paid over monthly by the State Tax Commission to the State Treasurer of Alabama for the exclusive use of the corporation authorized by this act. The said one-twelfth of such gasoline tax so appropriated to the use of said corporation shall be taken from the part allocated to the State of Alabama under Schedule 156.11 of said Act, and not from the part allocated under said Schedule to the several counties of this State.

Section 7. The proceeds of all securities issued shall be turned into the State Treasury, and together with the said excise tax as col-

lected shall be carried in a special road and bridge account to the credit of the corporation, and shall be subject to be drawn on by the corporation, upon the approval of the Governor, but solely for the purpose of building, and constructing the roads and bridges herein authorized. And contracts for the construction of such roads and bridges as the corporation may determine to build shall be let within twelve months from the final passage of this act, or as soon thereafter as is reasonable and consistent with safe construction. All contracts entered into by the corporation in connection with the building of these roads and bridges shall be in writing, prepared by the Attorney General of the State of Alabama, and in conformity with the requirements of the State Highway Commission, and all contracts shall be approved by the Governor. The corporation shall make and enforce all such reasonable rules and regulations not inconsistent with the terms of this Act, as may in its opinion be proper and suitable for the protection of said roads, bridges, approaches and appurtenances, and for the safety of the travelling public.

Section 8. Any corporation under this Act may be dissolved by the applicants or their successors filing with the Secretary of State their application therefor, which shall be subscribed, sworn to and certified as in the case of an application for incorporation. Upon the filing of said certificate, the corporation shall cease, and all of its property rights shall pass to the State of Alabama, but no applicant shall be responsible for liabilities of the dissolved corporation in any greater sum than the value of the property of such corporation which may come into his possession under its dissolution. The Secretary of State shall record the application for dissolution and shall make and issue under the seal of the State his certificate that the corporation is dissolved, and shall record the certificate with the application for dissolution.

Section 9. Should any applicant die, or his term of office expire before the dissolution of the corporation, his successors in office shall take his place and official position as a member of said corporation.

Section 10. There shall be no fees paid to the Secretary of State for any work in connection with the incorporation or dissolution of the corporation.

Section 11. Any record kept or certificate issued in pursuance of this Act, or a copy of any such record certified to be true by the legal custodian thereof, shall be received in evidence in all courts, and shall be prima facie evidence of the facts therein received, or thereby shown.

Section 12. The President of said Corporation shall be the person filling the highest executive position in the State Highway Department of Alabama, and the Vice-President and the Secretary

to be selected and designated by the members of the corporation.

Section 13. No officer of the corporation shall draw any salary in addition to that now authorized by law for his services, in connection with said corporation.

Section 14. The Legislature of Alabama now elected, or hereafter elected shall not be estopped on account of the passage of this bill or the authorizing of warrants or other securities to be issued by said corporation from at any time repealing the tax herein appropriated to said corporation. No warrant or other security issued by said corporation shall be the debt of the State of Alabama, nor shall the State of Alabama or its general faith and credit, be pledged to the payment of said obligations and said obligations shall not in any event be deemed or considered a debt or obligation of the State of Alabama, but the purchaser or assignee or holder of any such securities, warrants or transfers issued by such corporation shall look solely to funds actually appropriated to and under control of said corporation for the payment of said warrants, transfers or securities. No sale or transfer of any securities or taxes made by the corporation shall be valid unless the same is approved by the Governor of Alabama.

Section 15. No part of the funds appropriated to said corporation herein authorized shall be used for the maintenance of any road or bridge in the State of Alabama, nor shall the same be used for grading, but such funds shall be used solely in connection with funds of the Federal Government or its agencies or powers, in paving with portland cement concrete, bituminous types, or other hard surface material, roads already graded and ready for pavement in the State of Alabama. Provided, however, that said funds may also be used for bridges and culverts in connection with such surfacing.

Section 16. Said corporation, when formed, may make such contracts or agreements with the State Highway Commission of Alabama as may be necessary to carry out the purpose of this Act; and it may turn over to the State Highway Commission any and all funds of this corporation from time to time as may be necessary or proper for the most economical construction of such roads and to comply with all Federal or other Legislation relating to State Highway Departments, Federal Aid Roads or other Federal monies. The securities issued by said corporation shall be signed by the President, attested by the Secretary selected by said corporation and shall be countersigned by the Secretary of the State of Alabama, who shall affix to such instruments the official seal of the State of Alabama.

Section 17. The members of said Commission shall receive no salary for their services, but the Governor of Alabama shall pay from his Contingent Fund, all necessary travelling and sub-

sistence expense of the members of this Commission while actually engaged in going to, returning from or attending meetings of the Board.

Section 18. Any vacancy in the membership of said corporation shall be filled from the membership of the State Highway Commission and if the State Highway Commission is reduced below three members then the second and third members of the commission shall be appointed by the Governor.

Section 19. This Act shall take effect immediately upon its passage and approval.

Section 20. Should any provision of this Act be declared unconstitutional, it shall not affect the remaining part of the Act.

Approved Septembr 13, 1935.

No. 476)

(H. 932—Todd.

#### AN ACT

To authorize the Circuit Courts in counties having a population of 300,000 or more according to the last or any future Federal Census, to make such orders and rules concerning proceedings in causes of like nature or relative to the same question as may be conformable to the usages of Courts for avoiding unnecessary costs or delay in the administration of justice, and to authorize said courts to consolidate said causes when it appears reasonable to do so.

*Be it enacted by the Legislature of Alabama:*

Section 1. When causes of like nature or relative to the same question are pending before the Circuit Court in counties having a population of 300,000 or more according to the last or any future Federal Census, the Court may make such orders and rules concerning proceedings therein as may be conformable to the usages of courts for avoiding unnecessary costs or delay in the administration of justice, and may consolidate said causes when it appears reasonable to do so.

Approved September 13, 1935.

No. 477)

(H. 934—Todd.

#### AN ACT

To provide for and regulate the mode of selecting and impaneling juries in all criminal and quasi criminal cases in circuit courts in counties having a population of 300,000 or more according to the last or any future Federal census.

*Be it enacted by the Legislature of Alabama:*

Section 1. The provisions of this Act shall apply to and be operative only in circuit courts of this State in counties having a

population of 300,000 or more according to the last or any future Federal census.

Section 2. In every criminal case, any defendant or the prosecution may demand a struck jury. When so demanded, the clerk or his deputy or assistant or other person designated by the judge presiding, shall furnish all parties with a list of twenty four competent jurors in attendance upon the court, from which a jury must be obtained by the prosecution striking first from the list the name of one juror, and then the defendant striking from the list the name of one juror, and thereafter continuing to strike off one name alternately until only twelve jurors remain on the list, and these twelve thus selected shall be the jury charged with the trial of the case, except that in capital cases the list of competent jurors shall contain thirty names.

Section 3. The said twenty four jurors shall be obtained from all of the jurors then in attendance upon such courts and who at the time are readily and presently available for the trial of the case in such manner but without selection of names as the judge of such courts may prescribe by rule of court, or if no such rule is provided, then in such manner, but without selection of names, as ordered by the judge presiding on the trial of the case. In the event neither the prosecution nor any defendant demands a struck jury, the court shall obtain without selection of names, twelve competent jurors from the jurors then in attendance upon the court, and readily available for the trial, which said twelve jurors shall try the case.

Section 4. In the event that twenty four competent jurors are not readily and presently available for the striking of a jury in a misdemeanor or quasi-criminal case, then the prosecution and the defendant or defendants may be required to strike from the competent jurors that are presently and readily available for the trial provided the number of competent jurors is not less than eighteen. The striking of names when less than twenty four competent jurors are presently and readily available for the trial shall proceed in the same order and manner as if striking from a list of twenty-four jurors, until only twelve jurors remain on the list and these twelve shall be the jury charged with the trial of the case.

Section 5. In case two or more persons are tried jointly, the solicitor shall strike one and each defendant shall have the right to strike off one name and they shall continue thus to strike off names until only twelve remain, and the twelve thus selected shall be the jury charged with the trial of the defendants.

Section 6. If any defendant or defendants should refuse to strike the number of jurors allowed him by this act, from the list furnished him, then the judge presiding shall proceed to strike off



the names for the defendant or defendants refusing to strike.

Section 7. No special venire shall be ordered or drawn for the trial or trials of a defendant or defendants in capital felonies, and a defendant or defendants in capital felony cases shall only be entitled to strike from a list of twenty four competent jurors obtained from the regular juries in such courts.

Section 8. It shall not be a ground to quash the venire or to continue any case of the kinds referred to in this act that the sheriff has failed to summon any of the jurors drawn for service during the week in which said case is set for trial, or that any of the jurors summoned have failed or refused to attend court, or that there is any mistake in the name of any juror summoned, or that a judge, either in open court or otherwise has, for any cause, excused any juror summoned for service for the week in which said case is set for trial.

Section 9. The provisions of this act are directory merely and not mandatory.

Section 10. If any section or provisions of this act shall be declared unconstitutional and void, this shall not affect any other provision or section not in and of itself unconstitutional and void.

Approved September 13, 1935.

No. 478)

(H. 958—Welch.

### AN ACT

To Provide For And Establish in each and all counties of this State which now have a population of Two Hundred Thousand people, or more, according to the last Federal census, or which shall hereafter have such population, or more, according to any such census hereafter taken, a court to be designated the Juvenile and Domestic Relations Court; to provide that such courts shall be courts of record; to define the jurisdiction, power and authority of such courts; to provide the means necessary, proper, or convenient for the exercise thereof; to regulate same; to provide for a Judge of such courts, his term of office, and compensation; to provide for a Solicitor and for his compensation; and for such other officers and employees as are necessary or convenient for the exercise of its jurisdiction, and for their compensation; to provide for officials of said court their term of office and duties; to provide for and regulate the procedure of such courts, to authorize the Judge of said courts to determine the form of the records, and adopt rules of procedure therein, where not otherwise provided for in this Act; to provide for appeals from said courts and to regulate same; to fix and regulate the taxing of costs in such courts; to provide for the transfer to the jurisdiction of such courts certain causes pending in the Circuit Courts, and other courts in such counties; to provide for any section, paragraph, or other part of this Act shall be declared unconstitutional, that such decision shall not affect the remainder thereof.

*Be it enacted by the Legislature of Alabama:*

Section 1. That in each and all counties of this state which now have a population of two hundred thousand people, or more,

according to the last Federal census or which shall hereafter have such population, or more, according to any such census hereafter taken, there shall be and there hereby is created and established a court to be designated the Juvenile and Domestic Relations Court, which courts shall be courts of record, and said courts shall have and exercise all power, jurisdiction and authority which is herein or which shall hereafter be conferred on such courts.

Section 2. The said Juvenile and Domestic Relations Courts of such counties shall have and exercise original and exclusive jurisdiction, except as otherwise provided herein, in their respective counties, of all actions, proceedings, or causes, of whatever kind or character arising under the terms of or for the violation of any, or all laws now in force in said counties, or arising under the terms of, or for the violation of any ordinance of any incorporated city or town in said counties, or any law or ordinance which may hereafter be enacted, providing for the trial or disposition of, or involving; 1—The disposition, custody, control or protection of delinquent, dependent, or neglected children; 2—The prosecution and punishment of persons charged with the offenses of the abandonment or failure to support their wives, or of the abandonment or failure to support their child or children; 3—The prosecution and punishment of persons for the violation of any laws or regulations or ordinances for the education of children; 4—The prosecution and punishment of persons charged with the violation of any law or ordinance regulating child labor; 5—The prosecution and punishment of persons charged with contributing to the dependency, neglect or delinquency of a male child under sixteen years of age, or a female child under eighteen years of age; 6—The prosecution and punishment of assaults or assaults and batteries, of husbands on their wives, or wives on their husbands; 7—The prosecution and punishment of assaults, or assaults and batteries of parents on their children, and children on their parents, and such offenses on children by persons who have the custody or control of such children, or who stand in loco parentis to such children; 8—The prosecution and punishment of persons charged with the violation of any law having as its object the protection or enforcement of the custody and control by state institutions in said counties of children committed to the care of such institutions, or who have been received by, or are in, such institutions; 9.—Bills, petitions or writs involving the custody of minors; 10.—Bills, petitions or writs involving minors under Article Two (2) of Chapter Thirty Four (34) of the Code of Alabama of 1923; 11—Such Juvenile and Domestic Relations Courts shall have and exercise in such counties all the jurisdiction, functions and powers conferred upon Juvenile and Domestic Relations Courts in such counties under the terms of an Act—"Relating to dependent, neglected and delin-

quent children, etc.—” approved September 6th, 1927, General Acts 1927, Page 727, et seq. as amended by Acts Regular Session 1931, Page 542, and all provisions of said Act applying to, and all authority therein conferred upon, Juvenile and Domestic Relations Courts shall likewise apply to and is hereby conferred upon said Juvenile and Domestic Relations Courts, except as is herein otherwise provided. And the Judge of Such Juvenile and Domestic Relations Courts shall have and exercise all the power and authority of such Juvenile and Domestic Relations Courts, as provided for in said Act; 12—Such Juvenile and Domestic Relations Courts shall have jurisdiction to try and determine under the terms of this Act causes begun or initiated in other courts, including Police and Recorders Courts, and which causes are by law authorized to be transferred by such other courts to said Juvenile and Domestic Relations Courts for trial, and which causes are so transferred; 13—The prosecution and punishment of persons charged with any offense under Chapter One Hundred Fifty Seven (157) of the Code of Alabama of 1923; 14—Such Juvenile and Domestic Relations Courts shall have and exercise in such counties all the jurisdiction, functions and powers conferred upon Juvenile Courts under the terms of Chapter One Hundred of the Code of Alabama of 1923, and said Juvenile and Domestic Relations Courts are hereby given jurisdiction of all matters or causes in or contained in said Chapter.

Section 3. Said Juvenile and Domestic Relations Courts shall have, as to, and in the trial and disposition of the causes, actions, proceedings or matters of which said courts are herein given jurisdiction, or of which such courts may hereafter be given jurisdiction, all the power, jurisdiction and authority of Circuit and Chancery Courts, except as herein expressly provided; and said Juvenile and Domestic Relations Courts, as to such causes, and as to the trial and disposition thereof, are hereby given all the jurisdiction, power and authority of Circuit and Chancery Courts. The Judge of such Juvenile and Domestic Relations Courts, as to such causes, and as to the trial and disposition thereof, and as to such Juvenile and Domestic Relations Courts, generally, shall have and exercise all the power and authority of a Circuit Judge, or of a Chancellor, except as herein otherwise provided. It being the intention of this Act, as to the matters of which said Juvenile and Domestic Relations Court have jurisdiction, that all laws applicable to said Circuit and Chancery Courts, as to said matters and as to the disposition thereof, shall apply to said Juvenile and Domestic Relations Courts, and the Judge thereof, except as is herein otherwise provided.

Section 4. Said Juvenile and Domestic Relations Courts shall be held at the county site of each county affected hereby and at

each other place in such county where a branch or a division of the Circuit Court of such county is held or is authorized to be held. When sitting at the county site of such county such Juvenile and Domestic Relations Court shall there try and determine only such cases and matters as arise within the territorial jurisdiction of the Circuit Court of such county when sitting at the county site of such county, and when such Juvenile and Domestic Relations Court is sitting at a place where a branch or division of the Circuit Court is held or is authorized to be held other than at the county site such Juvenile and Domestic Relations Court shall there try and determine only such cases and matters as arise within the territorial jurisdiction of the Circuit Court when sitting at such place other than the county site. It is hereby made the duty of the Juvenile and Domestic Relations Court to hold sessions of said court at each place in such county where the Circuit Court is held or is authorized to be held not less than two days in each month and the Court shall make and spread upon the Minutes of said Court an order fixing the days on which court shall be held at each of such places. It is also hereby authorized and provided that said Juvenile and Domestic Relations Court may in the discretion of the Judge thereof be held at any other place or places in such county when to do so is convenient to the parties and witnesses and the Judge or Court had entered an order on the records of said Court designating the place and time of holding such court at such other place or places.

Section 5. The County Commission or other governing body exercising similar powers, of each and every county in which a Juvenile and Domestic Relations Court is established by this Act shall provide for such court in its respective county, convenient and suitable quarters in which said court may transact its business; and it shall be the duty of such County Commission or governing body, and it shall have full authority to do any and all things which it may deem necessary or helpful to the successful operation of such court, and to carry out the purposes and intent for which it is created.

Section 6. Said Juvenile and Domestic Relations Courts shall have no vacation period, but shall always be open to receive complaints, and to hear the causes provided for herein; provided that the Judge of such Juvenile and Domestic Relations Courts, if he so elect, shall have a vacation period in each year, not to exceed one (1) month, to be selected by such Judge. In the event of the absence of such Judge during such vacation periods, or in case of sickness of the Judge of said Juvenile and Domestic Relations Court, or of his unavoidable absence or inability to perform his duties, for a time, or in a particular cause, such Judge so absent, or about to be absent, may, and he is hereby given power and

authority, by order spread upon the minutes of such courts, to appoint some licensed attorney, resident of said county, and otherwise qualified under the terms of this Act, to serve as special Judge of such Court during the time, or any part thereof of such absence, or absences, or sickness of the regular Judge of said Court. The special Judge herein provided for, when so appointed, shall have authority, and he shall, during the absence, illness, or other inability of such regular Judge, or the part thereof, for which he was appointed, perform all or any designated part of the duties imposed by law on the regular Judge of said Court, and shall for the time which he so serves as such special Judge, receive the same compensation as said regular Judge, which shall be paid by said county, in the same way as is the salary of such regular Judge is paid. It shall be the duty of the regular Judge of said Court to furnish the County Commission or other governing body, of such county, a certified copy of the order, or orders, making such appointment, or appointments. Nothing in this Section contained shall be so construed as making it mandatory upon said regular Judge to appoint a special Judge, unless he shall deem it necessary; and provided further that said regular Judge may appoint a special Judge, for a portion of the time of such absence, sickness or other inability; and provided that he may appoint one person to serve as special Judge during a part of such time and another to serve during the remainder thereof; and provided that said Judge of said Court may appoint the solicitor of said Court to act as such special Judge of said Court during the absence or sickness, and when the said Solicitor shall be so appointed as such special Judge of said Court he shall perform all the duties of the regular Judge and shall have all the power and authority of the regular Judge of said Court. Provided further that the said Solicitor during the time he is so acting as said special Judge shall not receive any compensation other than his regular salary as Solicitor of said Court, and he shall receive his regular salary as Solicitor of said Court during the time he is acting as such special Judge.

Section 7. There shall be a Judge for each of said Juvenile and Domestic Relations Courts, whose terms of office shall be for Four (4) years, and until his successor is appointed and qualified. The Judge or Judges of said Juvenile and Domestic Relations Courts in all such counties, and their successor or successors, and the successor of all the present Judges of said Courts, shall be appointed by the Judge or Judges of the Circuit Court of the Judicial Circuit of Alabama, which any such county or counties compose, or which any such county or counties compose a part thereof for said term of Four (4) years, and until their successor or successors are appointed and qualified; and if there be more than one Judge of the Circuit Court of the said Judicial Circuit said Judge of said

Juvenile and Domestic Relations Court shall be appointed by the Judges of the Circuit Court of said Judicial Circuit, which any such county or counties compose, or which any such county or counties compose a part thereof, for a term of Four (4) years and until their successor or successors are appointed and qualified, and in the event that the office of the Judge or Judges of said Juvenile and Domestic Relations Court shall become vacant by resignation or otherwise, in like manner said Judge or Judges of the Circuit Court of said Judicial Circuit shall appoint a Judge for the unexpired term or terms of said Judge of said Juvenile and Domestic Relations Court. Provided that if there be more than one Judge of the Circuit Court of said Judicial Circuit, the presiding Judge of the Circuit Court or a Judge of said Circuit court acting as presiding Judge and if there be no presiding Judge of said Circuit Court, the senior Judge of said Court in the years of service shall call a meeting for the appointment of any Judge of said Juvenile and Domestic Relations Court as provided for herein of which he shall give three (3) days notice in writing to the other Judges of said Circuit Court of the time and place of said meeting, said meeting may be adjourned from time to time. The majority of the Judges of the **Circuit Court of said Judicial Circuit shall constitute a quorum** at any such meeting for the appointment of any Judge of said Juvenile and Domestic Relations Court. The clerk of the Circuit Court shall act as secretary at such meetings and shall make a record of the proceedings of said meetings and shall certify the appointment of the Judge of the Juvenile and Domestic Relations Court to the Governor of Alabama. The qualified person receiving the majority of the votes of all the Judges of the Circuit Court of said Judicial Circuit for the Judge of the Juvenile and Domestic Relations Court shall become the Judge of the Juvenile and Domestic Relations Court for the term for which he was appointed as provided for herein. It shall be the duty of the Judges of the Circuit Court to be present at any such meetings and adjourned meetings and proceed to fill the office of Judge of said Court as provided herein. Any such Judge being appointed and qualified as herein provided, the Governor of Alabama shall issue to him a commission as Judge of said Court as provided by law for commissioned officials. The salary of the Judge of the Juvenile and Domestic Relations Court shall be Forty Two Hundred (\$4,200.00) Dollars per year, payable in twelve (12) equal monthly installments out of the general funds of the County in which said court is located and exercises its jurisdiction. Such Judge shall have been a citizen of the State and of the county in which said Court exercises its jurisdiction for at least Five (5) years before the beginning of his term of office, and shall be learned in the law, shall not be less than twenty five (25) years of age, said Judge

may be a man or woman, and he or she shall be of high moral character, of clean life and shall be selected for his or her special fitness by training, education and experience to deal with the problems of dependent, neglected and delinquent children, and of the home and family life. During his or her term of office he or she shall not engage in any other gainful occupation or calling, but shall devote all of his or her time to the duties of said office, where not otherwise provided by law; the Judge of said Juvenile and Domestic Relations Court shall have authority to fix the character and the forms of the records of such court and to make and promulgate rules of procedure necessary or convenient for the preparation and trial or disposition of causes, and the transaction of business of such courts. Said Judge before entering upon the duties of his office shall take and subscribe to the Oath of Office as provided for other public officers. In case the Judge of said Juvenile and Domestic Relations Court, shall be unable to discharge the duties of his office by reason of disqualification or inability to serve said Court for a period of five (5) consecutive days, or in a particular case, except as provided in Section six (6) of this Act, it shall be the duty of the presiding Judge of the said Circuit Court, and if there be no presiding Judge the senior Judge in the years of service, to appoint some licensed attorney, resident of such County, and otherwise qualified under the terms of this Act, as special Judge of said Court, who shall perform all the duties of the regular Judge of the court during such disqualification or inability of said Judge, which special Judge shall receive the same compensation as the regular Judge of said Court and shall be payable in like manner out of the general funds of such county.

Section 8. Said Juvenile and Domestic Relations Court shall have a Clerk and Register at each place in said Counties where it holds its sessions. The Judge of said Court shall designate a probation officer or officers at each place in said county where it holds its session to act as clerks and registers of said court at each place, and when so designated such probation officer or officers shall be known as clerk and register of said court at such place, and shall have in addition to the authority herein conferred on probation officers all the power and authority as to causes and matters in said court as clerks of the Circuit Courts and registers in Chancery possess as to their respective court as to such causes and matters. Before entering into the discharge of such duties, such probation officer or officers shall make and file a bond in the sum of Two Thousand (\$2,000.00) Dollars, conditioned as clerks of the Circuit Court are conditioned. Such last named bonds shall be taken and approved as are the bonds of Circuit Clerks. The premium on such bonds shall be paid by the County in which said Court

exercises jurisdiction. The salary of the officer designated as clerk and register of the Juvenile and Domestic Relations Courts shall be fixed by the County Commission or other governing body of such county, and shall be payable in Twelve (12) equal monthly installments out of the general funds of the county in which said court is located. All vacancies in the office of said clerk and register shall be filled by the Judge of the Court and in case the clerk and register be unable to discharge the duties of his or her office by reason of sickness, disqualification or inability it shall be the duty of the Judge of said Court to appoint a probation officer or officers to perform all the duties of such clerk and register during such illness, disqualification or inability of the clerk and register. Any such probation officer or officers serving as such temporary clerk and register shall not receive any other compensation other than his or her regular salary as probation officer during the time he or she is serving as such temporary clerk and register. Said officers appointed under this Section shall serve at the will and pleasure of the Judge of said court.

Section 9. There shall be a solicitor for each of said Juvenile and Domestic Relations Courts of all such counties. The said **Solicitor and his successor or successors shall be appointed by the Judge of said Court**, and shall serve at the will and pleasure of said Judge. The salary of said Solicitor shall be fixed by the County Commission or other governing body of such counties, and shall be payable in Twelve (12) equal monthly installments out of the general funds of the county in which said court is located and exercises its jurisdiction. Said Solicitor shall represent the State in any and all causes tried in said Juvenile and Domestic Relations Court, and shall, under the supervision of the Judge of said Court, direct the probation officers in the Domestic Relations Division of said Court and shall perform any and all duties as Solicitor for the proper functioning of said Court. In any cause in which the Solicitor so appears, if the Judge hearing the cause shall order costs taxed and collected in accordance with the provisions of this Act, there may be taxed and collected in addition to other costs a solicitor's fee, not to exceed Ten (\$10.00) Dollars, which when collected shall be paid into the county treasury of said county. It shall be the duty of the Clerk and Register of said court to report and pay into the County Treasury, on or before the fifth day of each month, all costs so taxed and collected during the preceding month. Said Solicitor before entering upon the duties of his office shall take and subscribe to the Oath of Office as provided for other public officials. Said Solicitor shall be a resident of said county and state, and shall be learned in the law. In case the solicitor of said Court shall be unable to discharge the duties of his office by reason of sickness, disqualification or inability



ity, it shall be the duty of the Judge of said Court if he deems it necessary to appoint some licensed attorney, otherwise qualified, who shall perform all the duties of the regular solicitor of said Court during such illness, disqualification or inability of said Solicitor, which special solicitor shall receive the same compensation as the regular solicitor of said Court. The Judge of said Court may appoint a special solicitor during vacation of the regular solicitor and said special solicitor shall perform all the duties of the regular solicitor and receive the same compensation as the regular solicitor during said vacation. The solicitor herein provided for in addition to all powers, duties and authority as provided by law, shall have all the powers, duties and authority of solicitors of the Circuit Court and may perform all the powers, duties and authority of said solicitor of Circuit Court as to all matters, or causes in said Juvenile and Domestic Relations Court.

Section 10. Such dockets as are necessary or convenient shall be kept at each place where such Juvenile and Domestic Relations Courts hold its sessions. It is hereby declared to be in the interest of the public good that all cases arising under this Act, and of which said Courts are given jurisdiction, shall have a speedy trial, and to that end the Judge of said Juvenile and Domestic Relations Courts shall have authority to fix the days or time when the cases on said respective dockets at said respective places, where said court holds its sessions, shall be called to trial; provided such cases shall not be tried at an earlier date than five (5) days from the services of the process or warrant; if objections thereto is made by the defendant, or respondent, or by the parent, parents, custodian or guardian ad litem of respondent.

Section 11. The costs and fees in said Juvenile and Domestic Relations Courts shall be the same as in Circuit and Chancery Courts, but shall be taxed and collected or any part thereof, only when so ordered by the Judge of said Court. Realizing that most of those who will have to do with said Juvenile and Domestic Relations Courts are poor and without the means to pay costs or fees, the Judge of such courts is hereby authorized by order to tax as costs in any cause, which shall be in lieu of all other costs provided for in this Act, a fixed sum not to exceed Twenty Five (\$25.00) Dollars.

Section 12. In all cases of misdemeanor of which the said Juvenile and Domestic Relations Courts are given original and exclusive jurisdiction, or of which said courts shall be given jurisdiction by any other Act, complaints may be made to the Judge of said court or to the Solicitor, deputy solicitor or assistant solicitor of the Circuit Court or solicitor of the Juvenile and Domestic Relations Court or to some one designated by the said judge or by the solicitor, deputy solicitor or assistant solicitor of the Circuit

Court or solicitor of the Juvenile and Domestic Relations Court of such counties, who shall cause the facts stated to be true by such complaint to be reduced to writing, such complainant and such written statement of the facts may be brought before said Judge or said solicitor, deputy solicitor or assistant solicitor of the Circuit Court or solicitor of the Juvenile and Domestic Relations Court. When the complainant and such written statement of the facts are presented to either of the officers named in the preceding sentence, the officer before whom said complaint and such written statement of facts are brought, shall examine said complainant and any other person or persons under oath or affirmation concerning such statement and other matters by him deemed necessary in relation to such complainant. If such officer deems it in the interest of justice, he may order further investigation to be made by any probation officer of said court as to the facts of said complaints, in which event it shall be the duty of such probation officer to make a written report of his findings to such officer. If the complainant or said probation officer or other person knowing the facts, shall make the necessary affidavit, and if such Judge, solicitor, deputy solicitor, assistant solicitor of the Circuit Court or the **Solicitor of the Juvenile and Domestic Relations Court before** whom such affidavit is made, has probable cause for believing and does believe that the offense complained of has been committed in such county and the person accused has committed same he shall have authority to issue a warrant for the arrest of the accused person, returnable to said Juvenile and Domestic Relations Court, and fix the amount of bail bond that said accused person shall give and may also approve such bail. Said officer may at any time increase or reduce the amount of bail as may seem just. Said officers may issue as many alias warrants on said affidavit as may be necessary. The officer issuing such warrants may in his discretion at the time of issuing same, endorse thereon that the officers serving same may accept the signature of the defendant on said bail bond as sufficient security. Any probation officer mentioned herein or the sheriff, or deputy sheriff of such county, or the sheriff or deputy sheriff of the several counties of the State of Alabama or any lawful officer, may arrest the defendant in any county in the State of Alabama. In the event that the complainant or other interested person fails or refuses to make the necessary affidavit to bring such cause or complaint before the court, it shall be the duty of said probation officer, if he believes the facts warrant such action, and that it is in the interest of public welfare, to make such affidavit, and bring such cause or complaint before the court for trial. The solicitor or deputy solicitor or assistant solicitor of the Circuit Court or solicitor of the Juvenile and Domestic Relations Court of such counties may issue summons to any person or persons whether or

not the case is being handled formally or informally summoning such person or persons to appear before himself or the court in-stanter or at some other time and place as provided in summons for the purpose of giving information, facts or answering questions asked him concerning any offense or misdemeanor the court has jurisdiction over or to hear as provided by law, or as a witness in any case, and it shall be the duty of such person or persons to appear before said officer or court and answer such questions, give such information or facts as provided for in such summons. It is further provided that no such person or persons summoned shall be required in any way to incriminate himself. It shall be the duty of all persons to give any officer of the court information regarding matters or causes which said court is hereby given jurisdiction of.

Section 13. Such warrants and other process from such courts shall be executed and returned by the sheriff of such counties, as are warrants and processes issued from and returnable to the Circuit Court of such counties; provided, however, that in addition to the sheriff of said county or his deputy, the Chief Probation Officer of any probation officer of said Juvenile and Domestic Relations Court, or any police officer of any municipality in said county or any constable of such counties, or any such officers of the several counties of this State, shall also have authority to serve same, and his or their return shall have the same force and effect as that of the sheriff. The officers who receive such warrants or processes shall serve same promptly and shall immediately thereafter make return thereof to the said Juvenile and Domestic Relations Court. In the trial of all misdemeanor cases arising under the terms of this Act, or of which said Juvenile and Domestic Relations Courts are otherwise given jurisdiction, said Juvenile and Domestic Relations Courts shall determine both the law and facts without the intervention of a jury, and shall award such judgment, under the terms of this Act, or as provided by law, as shall seem just. The Juvenile and Domestic Relations Courts shall have all discretionary power and authority in the trial and disposition of said causes, or cases as provided by law. From such judgment the defendant shall have the right to appeal to the Circuit Court of such county and to demand in said Circuit Court a trial by jury, as provided for herein.

Section 14. There shall be a Chief Probation Officer for each of said Juvenile and Domestic Relations Courts of all such counties. Said Chief Probation Officer shall be appointed by the Judge of said court, and said Chief Probation Officer shall serve at the will and pleasure of said Judge. There shall be such number of probation officers and other employees of said Court and of the Detention Home or Parental School as in the judgement of the County

Commission or other governing body of such counties may be reasonably necessary for the proper functioning of such court, and said Home or School. Such probation officers and such other employees to be appointed by the Judge of said court with the consent and approval of the Advisory Board of said court. The said probation officers may be either men or women, or both. They shall be of high moral character, of clean life and shall be selected for their special fitness by training, education and experience to deal with the problems of dependent, neglected and delinquent children and of home and family life. The salary of the Chief Probation Officer of said Court shall be fixed by the County Commission or other governing body of such counties, and shall be payable in Twelve (12) equal monthly installments out of the general funds of the county in which said court is located and exercises its jurisdiction. The salary of the probation officers, and other employees of said court and Detention Home or School shall be fixed by the County Commission or other governing body of such counties and shall be payable in Twelve (12) equal monthly installments out of the general funds of the County in which said court is located. The Judge of said Juvenile and Domestic Relations Court **may, if found necessary or convenient for the adequate care and protection of children under the jurisdiction and guardianship of said court, or for the proper supervision of any other person on probation, appoint one or more volunteer probation officers, who shall serve without compensation from said county, upon such conditions and for such purposes as he may prescribe in the order of appointment.** The Judge of said Juvenile and Domestic Relations Court shall have authority, when he deems it to be for the best interest of said court, by proper order, to remove any probation officer, clerk and register or employee appointed under the terms of this Act, or any other law. The chief probation and salaried probation officers of said court shall have all the power and authority of sheriffs, police officers, school attendance officers and child labor inspectors anywhere in the State, and may serve any process issued out of said Juvenile and Domestic Relations Court, and may make arrest in the execution of warrants of arrest issued from said courts; and the returns of said officers shall have the same force and effect as that of sheriffs. Salaried probation officers of said court shall have no other gainful occupation, calling or employment, and shall devote their entire time to the duties of their office.

Section 15. The Judge of said Juvenile and Domestic Relations Court shall have authority to appoint the Chief Probation Officer or one or more probation officers to act as Referee or referees to hear informally, in the first instance, and adjust with the parties or their counsel such complaints and causes arising under the jurisdiction of said courts as shall be referred to them by said Judge.

Such Referee or Referees shall hold office during the pleasure of said Judge. In all such complaints and causes coming before such Referees they shall comply with the requirements of, and conform to, the procedure provided for the hearing of such complaints and causes by the Court. Upon the conclusion of the hearing in each case the Referee shall transmit to the court all papers in the case together with his conclusions and recommendation in writing. In case the conclusions and recommendation of the Referee are satisfactory to the parties such conclusions and recommendation, when confirmed by the Judge, shall become the judgment of the court. In cases wherein the conclusions and recommendation of the Referee are not confirmed by the court, and the cases wherein the conclusions and recommendations of the Referee are not satisfactory to the parties in interest, shall be by the clerk and register set down for formal hearing by the court, and shall be heard by the court as other cases are heard, and as if there had been no informal hearing. The judge of said court shall have authority to make such rules and regulations for the hearings herein provided for, and to adopt and have printed such forms for same as shall be necessary or convenient for the proper conduct of such hearings and of making reports of same.

Section 16. Upon the violation of the terms of any bail, appearance or probation bond provided for in this Act, or under the terms of any other Act giving said Juvenile and Domestic Relations Court jurisdiction, the said Judge sitting as the court shall have authority and shall proceed with the forfeiture of such bonds in the same way in which bail bonds are forfeited in the Circuit Courts of such counties. All monies collected on such appearance probation bonds, or probation bonds, or bail bonds in Desertion or Non Support cases shall be held by said Clerk and Register for the use of defendant's wife, child or children, to be paid to them or to some person, agency, or institution for their use, by said Clerk and Register under the direction and in accordance with the orders of the said Juvenile and Domestic Relations Court.

Section 17. Every motion for a new trial, or application for rehearing of any cause in said Juvenile and Domestic Relations Courts shall be filed with the Clerk and Register within five (5) days after the rendition of said judgment or decree, except as is herein provided for; and said motions shall be promptly heard, and decided by said Court. In ruling on such motions, the court shall have the right either to set aside the judgment, order or decree complained of, and order a rehearing or new trial; or it may modify such decree, order or judgment in any way that the court could have done at the original hearing; or at the time such order was made, and as shall seem just. And the court may, in matters of discretion, *ex mero motu*, amend such orders as to it shall seem just.

Section 18. An appeal may be taken, by any party aggrieved from any final order or judgment of said courts, in any criminal case, to the Circuit Court of such counties; and from any final order or decree, in any Equity case, or in any case involving any dependent, neglected or delinquent child, or minor, to the Chancery Court of such counties, or to the Circuit Courts of such counties, sitting as a Court of Equity, within ten (10) days from the rendition of such order, decree, or judgment, and not thereafter. In all equity cases, or cases involving dependent, neglected or delinquent children, or minors, the appellant shall be required to execute an appeal bond in such reasonable sum as the Judge of said Juvenile and Domestic Relations Court shall require, which bond shall be approved by said Judge, or by the solicitor of said Court, conditioned to comply with any order or decree rendered by said Circuit or Chancery Court, including the payment of costs on appeal in said Court; and said bond, in the case of a dependent, neglected, delinquent, or minor child may be upon the further condition that said child shall appear in said court at the trial of said appeal case to answer the order or decree of said Circuit or Chancery Court. In the case of any dependent, neglected, delinquent, or minor child, regardless of such appeal, and pending same, the said Juvenile and Domestic Relations Courts, or the Judge thereof, shall have authority to make such order, or orders, for the custody of such child pending the hearing on appeal, as shall be for the protection and welfare of such child, and of all parties in interest; and such Judge shall have the right to require such bond as shall be reasonable, to be approved by him, or by the solicitor of said court, to insure compliance with such orders for the custody, protection and welfare of such child, pending such appeal. In all criminal cases, the defendant, appellant, at the time of taking such appeal, shall have the right to demand a trial by jury in said Circuit Court, and upon such demand shall be so tried at the hearing of said case in said Circuit Court. Pending the hearing of said appeal the defendant shall be entitled to be released from custody upon his entering into bail in such reasonable amount as the Judge of such Juvenile and Domestic Relations Court shall fix conditioned upon his appearing in said Circuit Court to answer the charges pending against him on said appeal, which bail bond shall be approved by said Judge, or solicitor of said court, or the sheriff of said county. If such defendant, appellant, fails to make the required bail bond, and to have same approved, he shall be confined to the County Jail until tried on such appeal. Upon taking of such appeal, the Clerk and Register of said Juvenile and Domestic Relations Court shall at once certify, to the Clerk of the Circuit Court or the Register in Chancery, of such county, all papers in the case appealed, together with a transcript of all proceedings had in said Juvenile and Do-

mestic Relations Court in said matter. All such cases so appealed shall be regarded as preferred cases in said Circuit or Chancery Courts, and shall be promptly heard; and it shall be the duty of the clerks or registers of such courts, and the Judges thereof, to see that such appealed cases have a prompt hearing. Upon such appeal, the said Circuit or Chancery Court shall proceed under and in pursuance of the terms of this Act, or of the law governing such cases, to try said causes de novo and shall render such judgment, order or decree as to it shall seem just. In the hearing of such appeals and in the rendition of judgments therein, the said Circuit and Chancery Courts and the Judges thereof, shall have and exercise all the discretionary powers which are, by law, vested in said Juvenile and Domestic Relations Courts, or the Judges thereof. Upon the rendition of its judgment, order or decree the said Circuit or Chancery Court shall cause a copy of its judgment, order or decree to be filed with the clerk and register of said Juvenile and Domestic Relations Court, which when so filed, shall thereupon become, also, the judgment, order or decree of the said Juvenile and Domestic Relations Court; and said Juvenile and Domestic Relations Court shall have the same power, jurisdiction and authority to deal with such dependent, neglected, delinquent or minor child, or such respondent or such defendant, under such judgment, order or decree as if same had been rendered by said Juvenile and Domestic Relations Court in the first instance; and as to such judgment, orders or decrees such Juvenile and Domestic Relations Court shall have and exercise all the discretionary power and authority vested in such Courts as to judgments, orders, or decrees rendered by such Courts, in the first instance. In the event that the defendant in a criminal case on such appeal is sentenced to jail or hard labor for the county he shall be remanded to jail to answer such sentence; and in the event that such sentence is withheld or suspended and defendant is released on probation, the court shall inform such defendant as to his duties under such probation order, and shall order him to report at once to the Chief Probation Officer of said Juvenile and Domestic Relations Court, and thereafter said probationer shall be under the supervision of said Juvenile and Domestic Relations Court. The Judge of the Circuit Court or Chancery Court shall cause to be filed with the Clerk and Register of said Juvenile and Domestic Relations Court a probation bond, or appearance probation bond, or bonds in such causes as provided by law, except appeal bonds, and said probation bond, or appearance probation bond, or bonds thereafter shall become the bonds of the Juvenile and Domestic Relations Court and shall be subject to forfeiture in the same manner as if originally filed in said Juvenile and Domestic Relations Court. Said probation bond, or appearance probation bond, or

bonds may be approved by the Judge of said Circuit or Chancery Court or may be approved by the Judge of said Juvenile and Domestic Relations Court. In the event that such Circuit or Chancery Court in the exercise of its equity jurisdiction does not dismiss such petition, bill or proceedings, and does not discharge such dependent, neglected, delinquent or minor child, or such respondent, such Equity Court shall inform such child, or person, of their duties under the order or decree of said Court in said cause, and shall remand such child or person to the said jurisdiction of said Juvenile and Domestic Relations Court under the terms of and to be dealt with by said Juvenile and Domestic Relations Court under the terms of said order or decree; and thereafter said Juvenile and Domestic Relations Court shall have the same power and authority under said order or decree, as if said Juvenile and Domestic Relations Court had rendered said order or decree in the first instance.

Section 19. There shall be, and there hereby is, created and established a Board of said Court of not more than nine (9) persons, who shall be officials of said Court and be known as the Advisory Board of said Court. The members of said Board shall be citizens of **said counties wherein said court is located, known for their interest** in the conservation and protection of dependent, neglected and delinquent children and the preservation of the home and family life. Such appointees shall serve during the term of the Judge of the said Court, and until their successor or successors are appointed and qualified. Said members of said Advisory Board, and the successors of the present members of said Advisory Board, and their successors, shall be appointed by the Judge or Judges of the said Circuit Court of said Judicial Circuit, which any such county or counties compose, or which any such county or counties compose a part thereof, in the same way and manner as provided for the appointment of the Judge of said Courts, and if the office of any member of said Board should become vacant by resignation or otherwise the said Judge or Judges of the Circuit Court of said Judicial Circuit shall in like way and manner appoint some qualified person as member of said Board for the unexpired term of said member. It shall be the duty of said Circuit Judge or Judges to certify the appointment of any member of said Board to the Governor of Alabama, who shall issue to each of said members a commission of office. The fee for the issuance of said commissions shall be paid by the county wherein said court is located. Before entering upon the duties of their office the members of said Board shall each take and subscribe to the Oath of Office prescribed for other public officers. Said Advisory Board shall at the first meeting organize by electing such officers and adopting such laws and rules, not in conflict with this Act, for their government, and for the confirmation and approval of probation officers and other em-



employees of said Court, and for the superintendent and other employees of the Detention Home or Parental School of said Court. To bring to the attention of the Judge of said Court any inefficiency or dereliction of duty on the part of any officer or employee of said Court or Home or School. To study the work of the Court and other similar Courts, and from time to time, as such Board shall see fit, to recommend to the Judge of said Court, such measures as in the opinion of said Board would further the intent and purpose of this Act. To inform the public from time to time of the problems sought to be met by this Act, by reports of such work of said Courts, and through such other means as said Board shall deem wise. It shall be the duty of said Boards to see that said Courts have an adequate and efficient staff for the proper functioning of said Court. Said Board shall meet at least twice each year, and as often as called together by the Judge of said Court or president of said Board, and as often as said Board shall see fit. Five members of said Board shall constitute a quorum for the transaction of business at any such meeting of said Board.

Section 20. Upon the taking effect of this Act all causes of which the Juvenile and Domestic Relations Court is given original and exclusive jurisdiction pending in the Circuit and Chancery Courts of such counties, and all causes pending in the Police or Records Court, or other courts of such county, shall be and hereby are transferred to the dockets of said Juvenile and Domestic Relations Court herein created, and such Juvenile and Domestic Relations Court shall have full power and authority to hear, determine, or to do or take further proceedings in such case, as had such Circuit, Chancery, Police, Records and other courts, or the Judge or Judges thereof; and all wards and probationers of such Circuit Courts shall become the wards and probationers of such Juvenile and Domestic Relations Courts, and may be dealt with by said Juvenile and Domestic Relations Courts as could the Circuit Courts or the Judge or Judges thereof. Provided, however, that this section shall not apply to any case or cause which may have heretofore come to the Circuit Court in any such county by appeals from the judgment of any inferior or Juvenile and Domestic Relations Court.

Section 21. Said Juvenile and Domestic Relations Courts shall have an official Seal which Seal shall be of the same general design as the Seals of the Circuit Court of this State. The words "Juvenile and Domestic Relations Court of \_\_\_\_\_ County" shall appear around its border and the word "Seal" shall appear in the center of the Seal.

Section 22. In the trial of any misdemeanor of which such Juvenile and Domestic Relations Courts are given exclusive and original jurisdiction by the terms of this Act, or by any other Act, or

jurisdiction by transfer from another court, upon the entry of a plea of guilty or upon conviction the Judge of said Juvenile and Domestic Relations Court may, in his discretion by proper order entered upon the minutes of said Juvenile and Domestic Relations Courts defer, or withhold sentence, or the imposition of the penalty provided by law, and may by such order release the defendant on probation under such terms and conditions as to him shall seem just and conducive to the ends sought in this Act; or the said Judge imposing sentence may by such order suspend such sentence or stay the execution thereof, or any part thereof, and may by such order, release such defendant on probation upon such terms and conditions as to said Judge shall seem just and conducive to the ends sought in this Act. At the time of withholding or suspending such sentence, the said Judge shall have the right to order, as a condition thereto, the defendant to execute a probation bond or an appearance bond, to be approved by said Judge in such sum as shall seem just, conditioned to comply with the terms of the said order or stay or suspension or release, or to appear in said court at such times as such appearance bond may require during the term of such sentence. Such bond may be with or without surety.

**Section 23.** If at any time the Judge of said Juvenile and Domestic Relations Courts be satisfied by such evidence or proof as to him shall seem sufficient that such defendant has violated the terms of any such order of release, or of any such probation or appearance bond, said Judge may forthwith or after further probation, without notice to such defendant issue a warrant for the arrest of such defendant, to bring such defendant before the court instant, or that said defendant shall appear before the court at a time fixed in said warrant of arrest, in which latter case pending such time such defendant shall have the right to bail in such reasonable sum as the Court or Judge thereof shall fix, failing to make, which defendant shall be committed to jail to be brought before the court for the imposition of the stayed sentence, or to serve the suspended sentence, as the case may be; in the last contingency the said Judge shall set aside the suspension of such sentence before issuing said warrant. The Judge of such Juvenile and Domestic Relations Courts shall also have the right and authority from time to time after any part of such sentence has been served to release such defendant from the remaining part of such sentence, and to suspend the remaining part thereof, and to enforce or reenforce the remaining part as said Judge had in the first instance. The terms of such sentence, or of any remaining part thereof, after a part thereof shall have been served, shall commence from the date upon which sentence, or such remaining part thereof, is ordered to be enforced. No such sentence, or any part thereof, shall be stayed or suspended for a period longer than

one year, nor shall said sentence, or any part thereof, be enforced after said period of one year from the date of the original stay or suspension thereof. If at any time after the original stay or suspension of said sentence, it shall appear to the satisfaction of said Judge, that such defendant had complied faithfully with the terms of said stay or suspension, the said Judge may enter an order staying or suspending such sentence absolutely, in which case such defendant shall be released therefrom.

Section 24. This Act being remedial in its nature shall be liberally construed that it may accomplish the beneficent purposes intended thereby; and should any section, or other part thereof be declared unconstitutional by a court of competent jurisdiction, on the ground that said Juvenile and Domestic Relations Court cannot be given exclusive jurisdiction of a particular matter or subject so provided therein, then and in that event as to such matter or subject, such Juvenile and Domestic Relations Court shall have original and concurrent jurisdiction, with the Circuit and Chancery Courts of this State. No decision by a Court of competent jurisdiction declaring a part of this Act unconstitutional shall affect the remainder thereof.

Section 25. All laws, general, local, special, or private, or parts of laws inconsistent or in conflict with the terms of this Act are hereby expressly repealed.

Section 26. This Act shall take effect immediately upon its approval by the Governor.

Approved September 13, 1935.

No. 479)

(H. 960—Welch

### AN ACT

To amend Sections 20 and 23 of an Act approved September 6th, 1927, entitled: "An Act, Relating to dependent, neglected or delinquent children in all counties of Alabama which have a population of as many as Two Hundred Thousand people according to the last Federal census, or which shall have such population according to any such census that may be taken hereafter, and which counties now have, or which counties shall hereafter have a Juvenile and Domestic Relations Court; to define who are dependent, neglected or delinquent children; to declare that such children shall be wards of the Juvenile and Domestic Relations Courts of such counties; to provide for their protection, guardianship, custody, care, supervision, discipline, and generally for their welfare; to confer upon such Juvenile and Domestic Relations Court in such counties original and exclusive jurisdiction and authority to adjudicate and enforce all questions and matters arising under or provided for by the terms of this Act, and to confer upon such courts full power and authority to try and determine all such questions; or which may be otherwise referred to them by law; for adjudication, or which may be necessary or convenient to the exercise of such jurisdiction, or to carry out the purpose and intent of this Act; to confer upon such courts

authority to make rules and regulations, and to devise and have printed, such records and forms, where not otherwise provided for under the terms of this Act, as shall be found necessary or convenient to the exercise of its jurisdiction, or which shall be necessary or convenient for the conduct of the Detention Home or Parental School, or for the conduct of probation officers, or their work as provided for in this Act; to create and provide for Advisory Boards to such courts, and to define their duties; to make it a misdemeanor by act, or omission, or otherwise to aid, abet, cause, connive at or contribute to the dependency, neglect, or delinquency of such children, in such counties, or to conceal or otherwise interfere with the custody of such children, or to interfere with or obstruct probation officers in the discharge of their duties, and in certain contingencies for injunction in such cases, and to provide for the trial and punishment of such offenders; to provide for investigations by probation officers, and the effect of their reports as evidence; to provide for the taking and enforcement of recognizances when same are made by a minor with adults as sureties; to provide that all proceedings under the terms of this Act in dealing with the children described herein shall be in equity, and civil in their nature, and to regulate same; to provide for the trial of any delinquent child as defined by this Act, in a criminal court of competent jurisdiction, when the court after investigation or trial is convinced that such child cannot be made to lead a correct life under the discipline provided for such delinquent under the terms of this Act; to provide that under certain contingencies male children between sixteen and eighteen years of age shall be dealt with as delinquents; to provide for the establishment and maintenance of a Detention Home or Parental School and for the appointment and compensation of probation officers, and for other expenses incident to the purposes of this Act; to provide for the appointment of Referees, and to define their powers and duties; to declare when this Act shall take effect, that should any part of this Act be found to be unconstitutional that it shall not affect the remainder thereof, and to provide for the repeal of all laws inconsistent or in conflict with this Act:

*Be it enacted by the Legislature of Alabama:*

Sec. 1. That Section 20 and 23 of an Act entitled an Act, relating to dependent, neglected or delinquent children in all counties of Alabama which have a population of as many as Two Hundred Thousand people according to the last Federal census, or which shall have such population according to any such census that may be taken hereafter, and which counties now have, or which counties shall hereafter have a Juvenile and Domestic Relations Court; to define who are dependent, neglected or delinquent children; to declare that such children shall be wards of the Juvenile and Domestic Relations Courts of such counties; to provide for their protection, guardianship, custody, care, supervision, discipline, and generally for their welfare; to confer upon such Juvenile and Domestic Relations Courts in such counties original and exclusive jurisdiction, and authority to adjudicate and enforce all questions and matters arising under or provided for by the terms of this Act, and to confer upon such court full power and authority to try and determine all such questions; or which may be otherwise

referred to them by law; for adjudication, or which may be necessary or convenient to the exercise of such jurisdiction, or to carry out the purpose and intent of this Act; to confer upon such courts authority to make rules and regulations, and to devise and have printed such records and forms, where not otherwise provided for under the terms of this Act, as shall be found necessary or convenient to the exercise of its jurisdiction, or which shall be necessary or convenient for the conduct of the Detention Home or Parental School, or for the conduct of probation officers, or their work as provided for in this Act; to create and provide for Advisory Boards to such courts, and to define their duties; to make it a misdemeanor by act, or omission, or otherwise to aid, abet, cause, connive at or contribute to the dependency, neglect, or delinquency of such children in such counties, or to conceal or otherwise interfere with the custody of such children, or to interfere with or obstruct probation officers in the discharge of their duties, and in certain contingencies for injunction in such cases, and to provide for the trial and punishment of such offenders; to provide for investigations by probation officers, and the effect of their reports as evidence; to provide for the taking and enforcement or recognizances when same are made by a minor with adults as sureties; to provide that all proceedings under the terms of this Act in dealing with the children described herein shall be in equity, and civil in their nature, and to regulate same; to provide for the trial of any delinquent child as defined by this Act, in a criminal court of competent jurisdiction, when the court after investigation or trial is convinced that such child cannot be made to lead a correct life under the discipline provided for such delinquents under the terms of this Act; to provide that under certain contingencies male children between sixteen and eighteen years of age shall be dealt with as delinquents; to provide for the establishment and maintenance of a Detention Home or Parental School and for the appointment and compensation of probation officers, and for other expenses incident to the purposes of this Act; to provide for the appointment of referees, and to define their powers and duties; to declare when this Act shall take effect, that should any part of this Act be found to be unconstitutional that it shall no affect the remainder thereof, and to provide for the repeal of all laws inconsistent or in conflict with this Act, which Act was approved September 6th, 1927, be and same are hereby amended so as to read as follows: Section 20. Any person who shall commit any act, or omit the performance of any legal duty, which act or omission causes or tends to cause or encourage any male child under sixteen years of age or any female child under eighteen years of age, to become dependent, neglected, or delinquent, as defined herein, or which act or omission contributes thereto; or any person who shall by any act, word, conduct or omission of legal duty, or

who shall by threats, commands, or persuasion induce or endeavor to induce, any such child, or who shall aid or encourage any such child, in such county, to do or perform any act, or to follow any course of conduct, or to so live as would cause, or manifestly tend to cause, any such child, in such county, to become, or remain, dependent, neglected, or delinquent, as defined herein—to the end that such children may be protected from such influences—shall be guilty of a misdemeanor and upon conviction of said offense may be fined not more than Five Hundred (\$500.00) Dollars, and in addition thereto may be sentenced to hard labor for the county for not more than Twelve (12) months, or to a term of imprisonment in the county jail for not more than Twelve (12) months. The said Juvenile and Domestic Relations Courts shall have original and exclusive jurisdiction to hear and determine all cases arising under this section and such cases shall be instituted and tried in such courts, in the same manner as is now, or may hereafter be provided for the institution and trial of other misdemeanors in said courts, and shall be subject to all the provisions governing misdemeanor cases in such courts. Regardless of whether the defendant be held guilty and fined, or sentenced, or both, or not, at any trial **under the provisions of this section**, if the evidence, in the opinion of the court, establishes to that degree of certainty required in civil cases, the guilt of the defendant, then in either event the court may, if in its judgment it be conducive to the welfare of said child, issue an injunctive order, which in the case of conviction, fine, or sentence, or both shall be in addition thereto, directed against the defendant as provided for in Section Five (5) of this Act. An affidavit in the following form shall be sufficient to charge the offense created and set out, in this Section:

The State of Alabama       ) In the Juvenile and Domestic Relations  
(Name of County), County) Court of (name of County), County.  
Personally appeared before me, (here insert name of officer authorized by law to receive such complaints and affidavits, and issue warrants of arrest thereon of the Juvenile and Domestic Relations Court of (name of county), County, (here insert name of complainant), who being by me first duly sworn deposes and says: First: That (here insert name of accused), has within twelve months before the making of this affidavit, in said county, committed an act, or omitted the performance of a legal duty owed by the said (here insert name of accused), to the hereinafter named child, which act, or omission of legal duty, cause, or tended to cause, or encouraged (here insert name of child) a \_\_\_\_\_ male child under sixteen or eighteen (as the case may be) years of age, to become dependent, neglected or delinquent, as defined by law in said county, or that the said act or omission contributed thereto; in that the said (here insert name of accused), did within said

twelve months, in said county (here state succinctly and clearly the act or omission complained of.) Second: Affiant further says, that the said (here insert the name of the accused), did within twelve months before the making of this affidavit, in said county, by act, word, conduct, or omission of legal duty, owed by the said (here insert name of accused) to the hereinafter named child, or by threats, commands, or persuasions, induce, or endeavor to induce, or did aid or encourage (Here insert name of child), a \_\_\_\_\_ male child under sixteen or eighteen (as the case may be) years of age, to do or perform an act, or to follow as course of conduct, or to so live as would cause, or manifestly tend to cause the said (here insert name of child to become, or remain dependent, neglected or delinquent, as defined by law in said county, in that the said (here insert name of accused) did within twelve months, within said county (here state succinctly and clearly the acts, words, threats, conduct, omission, inducements, etc., complained of), Against the peace and dignity of The State of Alabama. \_\_\_\_\_ Affiant. Sworn to and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_\_.

\_\_\_\_\_ (here insert name of officer authorized by law to receive such complaints and affidavits, and to issue warrants of arrest thereon.) If merely injunctive relief is sought against one or more defendants or person, as hereinabove provided, petition may be made therefor by a bill of complaint addressed to the said Juvenile and Domestic Relations Courts, or to a Judge thereof, and such proceedings shall be governed by the rules of Chancery pleading and practice; except that ten days shall be the limit of time allowed for appearance and answer after service of summons, in such proceedings. The court trying any defendant charged with violation of this Section, or the Judge of any such court, may at his discretion with the consent of the defendant, by proper order, defer or, withhold sentence, or the imposition of the penalty provided herein, and may by such order release the defendant on probation under such terms and conditions as to him seems just and conducive to the ends sought in this Section; or the said Judge, if he impose sentence as provided herein, may by proper order suspend said sentence, or stay the execution thereof, or any part thereof, and may by such order release such defendant on probation, upon such terms and conditions, as said court or said Judge, shall deem just and conducive to the ends sought in this Section. At the time of withholding or suspending such sentence the court or said Judge shall have the right to order, as a condition thereto, that the defendant execute a probation bond, or an appearance bond, to be approved by said Judge, in such sum as shall seem reasonable and just, conditions to comply with the terms of such probation order, or stay, or suspension, or release, or to appear in said Court at such times as such order of release may require,

during the term of probation fixed by such court or Judge. Such withholding of sentence or suspension thereof and such probation period shall not be for a term longer than two (2) years. Such probation or appearance bond may be with or without sureties. If at any time during said two years the Judge of the court is satisfied by such evidence or proof as to him shall seem sufficient that such defendant has violated the terms of any such order of release or probation or any such probation or appearance probation bond, said Judge may forthwith or after further probation without notice to such defendant issue a warrant for the arrest of such defendant, to bring the defendant before the court instantler, or that such defendant shall appear before the court at a fixed time in said warrant of arrest, in which latter case pending such time such defendant shall have a right to bail in such reasonable sum as to the court or Judge thereof shall fix, failing to make, which defendant shall be committed to Jail to be brought before the court for the imposition of the stayed fine and sentence or imprisonment or to serve the suspended sentence or imprisonment, as the case may be. The Judge of said Court shall have a right and authority to impose the deferred penalty or withhold sentence or imprisonment or both **as he could have done in the first instance**, and the Judge of said Court, if said fine and imprisonment or sentence has been suspended, revoke such suspension of the fine and sentence or imprisonment and order same served or excuted. No sentence shall be withheld for a longer period than Two (2) Years, and the suspension of the payment of fines or the suspension of the sentence to the County Roads or imprisonment in the County Jail shall not be for a longer period than Two (2) Years, and no fine or sentence or imprisonment shall be enforced by the court after a period of Two (2) years from the original date of said suspension or stayment of same unless the defendant had violated his probation or order of release within the period of Two (2) years, in which case such fine, imprisonment and sentence may be enforced. If the defendant accepts probation and if released on probation under this Section he shall have waived his right of appeal and no appeal shall be allowed such defendant. Section 23. It shall be unlawful for any person in such counties to remove, or conceal, or cause to be removed or concealed, or attempt so to do, any dependent, neglected, or delinquent child, as defined in this Act, or one alleged in a petition or order of transfer filed in said court, to be so, or any child, whose custody is the subject of controversy in said court, in order that such child may not be brought before the court; or for any reason to interfere with the custody of, or remove, or attempt to remove any dependent, neglected, or delinquent child, or one alleged so to be, or any child whose custody is the subject of controversy in said court, who is



in the custody of the court, or of a probation officer, or any other officer, or person designated by the court as a special officer, or any such child who has been by said court committed to any person, persons, institution, association or corporation, under the terms of this Act, or by virtue of its general Chancery jurisdiction; or for any person to interfere with or obstruct any probation officer, or other officer, in the discharge of his or her duty under this Act; or for any person to refuse to give such probation officer legal and proper information, known to such person, about any such child, when sought of such person by such probation officer, in the discharge of his or her duties under this Act, (provided that no such person shall be required to incriminate himself); or to give such probation officer false information, knowing it to be false, under such circumstances. Any person, in any such counties, violating any of the provisions of this Section shall be guilty of a misdemeanor, and upon conviction thereof may be fined not more than One Hundred (\$100.00) Dollars, and in addition thereto may be sentenced to hard labor for the County for not more than twelve (12) months, or to a term of imprisonment in the County Jail for not more than twelve (12) months, one or both. Such Juvenile and Domestic Relations Courts in such counties shall have original and exclusive jurisdiction of offenses under this Section; and such cases shall be instituted and tried in such courts, in the same manner as is now or may hereafter be provided for in the institution and trial of other misdemeanors in said county, and shall be subject to all the provisions governing misdemeanor cases in such courts. The court trying any defendant charged with violation of this Section, or the Judge of any such court, may at his discretion with the consent of the defendant, by proper order, defer, or withhold sentence, or the imposition of the penalty provided herein, and may by such order release the defendant on probation under such terms and conditions as to him seems just and conducive to the ends sought in this Section; or the said Judge, if he impose sentence as provided herein, may by proper order suspend said sentence, or stay the execution thereof, or any part thereof, and may by such order release such defendant on probation, upon such terms and conditions, as said court or said Judge, shall deem just and conducive to the ends sought in this Section. At the time of withholding or suspending such sentence the court or said Judge shall have the right to order, as a condition thereto, that the defendant execute a probation bond, or an appearance bond, to be approved by said Judge, in such sum as shall seem reasonable and just, conditioned to comply with the terms of such probation order, or stay, or suspension, or release, or to appear in said Court at such times as such order of release may require, during the term of probation fixed by such Court or

Judge. Such withholding of sentence or suspension thereof and such probation period shall not be for a term longer than two (2) years. Such probation or appearance bond may be with or without sureties. If at any time during said two (2) years the Judge of the Court is satisfied by such evidence or proof as to him shall seem sufficient that such defendant has violated the terms of any such order of release or probation or any such probation or appearance probation bond, said Judge may forthwith or after further probation, without notice to such defendant issue a warrant for the arrest of such defendant, to bring the defendant before the court instantler, or that such defendant shall appear before the court at a fixed time in said warrant of arrest, in which latter case pending such time such defendant shall have a right to bail in such reasonable sum as to the Court or Judge thereof shall fix, failing to make, which defendant shall be committed to Jail to be brought before the court for the imposition of the stayed fine and sentence or imprisonment or to serve the suspended sentence or imprisonment, as the case may be. The Judge of said Court shall have a right and authority to impose the deferred penalty or withhold sentence or imprisonment or both as he could have done in the first instance, and the Judge of said Court, if said fine and imprisonment or sentence has been suspended, revoke such suspension of the fine and sentence or imprisonment and order same served or executed. No sentence shall be withheld for a longer period than Two (2) years, and the suspension of the payment of fines or the suspension of the sentence to the County Roads or imprisonment in the County Jail shall not be for a longer period than Two (2) years, and no fine or sentence or imprisonment shall be enforced by the court after a period of Two (2) years from the original date of said suspension or stayment of same unless the defendant had violated his probation or order of release within the period of Two (2) years, in which case such fine, imprisonment and sentence may be enforced. If the defendant accepts probation and if released on probation under this Section he shall have waived his right of appeal and no appeal shall be allowed such defendant.

Sec. 2. All laws and parts of laws in conflict with or inconsistent with this Act are hereby expressly repealed.

Sec. 3. This Act to take effect upon approval of the Governor.

Approved September 13, 1935.

No. 482)

(H. 1017—Byars.

## AN ACT

To provide for the payment of publication of notice of intention to introduce a local bill in the Legislature.

*Be it enacted by the Legislature of Alabama:*

Section 1. Expenses heretofore or hereafter incurred in the publication of the intention, by Lawrence County's Representative or Senator, to introduce a local bill in the Alabama Legislature shall be paid by the said Lawrence County out of its general funds.

Section 2. All laws and parts of laws in conflict herewith are hereby repealed.

Section 3. This act shall be effective on and after its approval by the Governor.

Approved September 13, 1935.

No. 483)

(H. 1056—Taylor

## AN ACT

To provide that in all counties in the State of Alabama having a population of 110,000 and not more than 300,000 according to the last or any subsequent Federal Census that it shall be unlawful to buy, sell or otherwise transfer cattle without a bill of sale, describing said cattle, and the mark or brand of same set out therein and signed by the person selling or transferring same, and to provide for the penalty for violation of this Act.

*Be it enacted by the Legislature of Alabama:*

Section 1. To provide that in all counties in the State of Alabama having a population of 110,000 and not more than 300,000 according to the last or any subsequent Federal Census that it shall be unlawful to buy, sell or otherwise transfer cattle without a bill of sale, describing said cattle, and the mark or brand of same set out therein and signed by the person selling or transferring same.

Section 2. Any person violating the provisions of this Act shall be fined not more than One Hundred (\$100.00) Dollars on conviction thereof.

Section 3. All laws and parts of laws in conflict herewith are hereby expressly repealed.

Section 4. This Act shall take effect upon its passage and approval.

Approved September 13, 1935.

No. 484,

(H. 1057—Todd.

## AN ACT

To amend Sections II, III, V, and VI of an Act entitled "An Act to define, regulate and license barbers and barber colleges, and other like businesses in counties of the State of Alabama having a population of three hundred thousand or over, according to the last or any subsequent Federal Census; to create a barbers' Commission for said Counties; and to provide a penalty for the violation of the provisions hereof," which became a law July 24, 1931, under Section 125 of the Constitution.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Sections II, III, V and VI, of an Act entitled "An Act to define, regulate and license barbers and barber colleges, and other like businesses in counties of the State of Alabama having a population of three hundred thousand or over, according to the last or any subsequent Federal Census; to create a barbers' Commission for said Counties; and to provide a penalty for the violation of the provisions hereof," which became a law on July 24th, 1931, be and the same is amended so that the same shall read as follows: "Section II. A barber, barber shop, barber college or other like business within the meaning of this Act is any person, firm, partnership, co-partnership, association or corporation, who, for a valuable consideration, shaves or trims the beard; gives facial or scalp massages, or treats the same with oils or other preparations, singes, shampoos, cuts or dyes the hair of a human being, or applies hair tonic or other cosmetic preparations, clays, or lotions to the scalp, neck or face, or engages in the teaching of any person or persons in the art of barbering as in this paragraph defined. Provided, However, the provisions of this Act shall not apply to (1) to persons engaged in the practice of medicine, surgery or beauty culture, (2) persons actively engaged in the military service of the United States Government while acting in line of duty, (3) registered nurses in the course of their employment as such, (4) persons who render any of said services to members of their immediate families." Section III. There is hereby created a Barbers' Commission for each county in the State of Alabama affected by this Act. The County Commission or like governing body of the counties affected shall appoint three persons, each of whom immediately prior to the date of his appointment has been a resident of the State for three years, and of the counties affected hereby for at least one year, and who has had at least five years' experience as a barber, one member to be appointed for a term of one year, one member to be appointed for a term of two years, and one member to be appointed for a term of three years, and until their successors are appointed and qualify, thereafter the term of the members of said Commission shall be

for three years and until their successors are appointed and qualify, provided, however, that the member appointed during the calendar year 1936 shall be appointed for a term of two years; the member appointed during the calendar year 1937 shall be appointed for a term of one year, and when the terms of all three expire in 1938, their successors shall each be appointed for a period of two years, and thereafter all the members of said Commission shall be appointed for concurrent terms of two years each and until their successors are appointed and qualify. There shall be at no time more than two Commissioners residing or doing business in any one city, town or village, of counties affected hereby. Members to fill vacancies shall be appointed and vacancies caused by the expiration of the term shall by said person be appointed from time to time as required. The Commission immediately upon the qualification of the member appointed each year, or immediately upon the qualification of the three commissioners appointed together, after the year 1937, shall organize by selecting from its members a chairman, and may do all things necessary or convenient for carrying into effect the provisions of this Act. Each member of the Commission shall receive as full compensation for each day actually spent in the work of said Commission the sum of seven dollars per day and his actual and necessary expenses thereby incurred. The members of said Commission shall not be paid for their attendance for more than one meeting of not over one days duration during each calendar week. The Commission shall appoint, and at its pleasure discharge, a secretary-examiner and an inspector and such assistants as may be deemed necessary to discharge the duties imposed by the provisions of this Act; said Commission shall outline their duties and fix their compensation subject to the general laws of this State. The Commission shall obtain such office space, furnishings, and other conveniences as shall be reasonably necessary for carrying out the provisions of this Act. The inspector shall have the power and authority to arrest persons guilty of a violation of any of the provisions of this Act. The principal office of said Commission to be located at the county seat of the counties hereby affected. The Commission shall adopt a seal with such design as it may prescribe engraved thereon, by which it shall authenticate its proceedings. Copies of all records and papers in the office of the Commission duly certified and authenticated by its seal shall be received in evidence in all courts with like effect as the original. All records kept in the office of the Commission under authority of this act shall be open to public inspection under such rules and regulations as shall be prescribed by the Commission. All fees and charges collected by the Commission under the provisions of this Act shall be paid into the treasury of the counties hereby affected and shall constitute a separate fund to be disbursed by

the county treasurer on order of the Board of Commissioners and with the approval of the chairman of the Board of County Commissioners or Board of Revenue. All expenses incurred by the Commission, including the compensation of members and their employee, shall be paid out of such separate fund upon checks signed by the chairman of said Commission and approved by the Chairman of the Boards of County Commissioners or Boards of Revenue by the County Treasurer, provided the total expenses for every purpose incurred shall not exceed the total fees and charges collected and paid into the county treasury by said Commission and all moneys remaining in said separate fund at the end of the fiscal year not expended as herein provided shall become a part of the general fund of the county. Section V. Whenever the masculine gender is used in this Act it is to include the feminine gender. Every applicant for a barber's license, apprentice-barber's license, or for a license to operate a barber shop or barber's college, or other like business, shall apply therefor in writing on blanks prepared or furnished by said barber's Commission. It shall be accompanied by the recommendation of at least two barbers doing business in said County, not related to applicant, certifying that the applicant is of good reputation, is qualified to practice the trade of barbering, and recommending that a license be granted. Said application shall be accompanied by the application fee hereinafter provided, and a reputable doctor's certificate certifying that said applicant has no communicable or contagious or infectious disease. Should said application not be approved, one-half the fee filed therewith shall be refunded to the applicant and one-half thereof shall be retained by the Commission for the expense of conducting the investigation and examination by this Act required. The Commission, after applications in proper form have been filed, shall set the application down for a hearing (before refusing to issue a license), and determination as hereinafter provided. The Commission shall issue a license in such form as it may prescribe, which shall show the name and address of the licensee and the barber shop or college, in which he is employed. The seal of the Commission shall be imprinted on the license, and such other Additional matter placed thereon as the Commission may designate. It shall be the duty of each person, co-partnership, association or corporation to conspicuously display his license in his place of business. The Commission shall issue to each licensee a pocket card, on which shall be an imprint of the seal of the Commission certifying that the person whose name appears thereon is a licensed barber or operator of one of the businesses herein named as the case may be. The original fee for each barber's license shall be twenty-five dollars and the annual renewal fee shall be seven dollars and fifty cents. The

original fee for each person to operate a barber shop, or other like business shall, in addition to the fee hereinbefore provided, pay two dollars and fifty cents for each chair maintained and an annual renewal fee of one dollar for each chair maintained in said business. The original fee for each person to operate a barber college shall in addition to the fee hereinbefore provided be one hundred dollars. Every license shall expire on the 31st day of December of each year. The Commission shall issue a new license for the ensuing year in the absence of any reason or condition that might warrant the refusal of granting of the license upon the receipt of the written request of the applicant accompanied by the annual fee therefor, as herein required, and accompanied also by a certificate of a reputable physician asserting that the applicant then has no contagious, communicable, or infectious disease. The Commission may upon its own motion, and shall upon the verified complaint in writing of any three persons making out a prima facie case, investigate the actions of any person hereby affected, and shall have the power to suspend or to revoke any license issued under the provisions of this Act at any time where the licensee has fraudulently obtained a license, or where the licensee in performing or attempting to perform any of the acts mentioned herein is deemed to be guilty of (a) the violation of any state, county or city statute or ordinance pertaining to the operation of the business hereby affected, (b) the violation of any rule or regulation established by the Commission, (c) or who has failed upon the request of the secretary-examiner to give evidence and/or proof of the compliance with the same. The Commission shall, before denying an application for a license, or before suspending or revoking any license, set the matter down for a hearing, and at least twenty days prior to the date set for the hearing, notify the applicant or licensee in writing, which notice shall contain an exact statement of the charges made and the date and place of hearing. The applicant or licensee at all such hearings shall have the opportunity to be heard in person and by counsel. Such notice may be served by delivery of the same personally to the applicant or licensee, or by mailing the same by registered mail to the last known business address of such applicant or licensee. In preparation and conduct of hearings, the Commission shall have power to require by subpoena the appearance and testimony of witnesses and the production of papers, and any member of the Commission may sign subpoenas, administer oaths, and examine witnesses. The fees and mileage shall be the same as prescribed by law in judicial procedure in the courts of this state in civil cases. Any party to a hearing shall have the right to the attendance of witnesses in his behalf. In case of disobedience to a subpoena, any member of the Commission may invoke the aid of

any court of competent jurisdiction in requiring the attendance and testimony of witnesses and the production of papers and such court may issue an order requiring the persons to appear before the Commissioner, and give evidence or produce papers, as the case may be, and any failure to obey such order of the court may be punished by the court as a contempt thereof. Any person so refusing to appear and give testimony required by such Commission shall be guilty of a misdemeanor, and upon conviction thereof by a court of competent jurisdiction, as provided by this Act. If the Commission shall determine that any applicant is not qualified to receive a license, or that any licensee is guilty of a violation of any of the provisions of this Act, a license shall not be granted, or the same suspended or revoked, as the case may require. Upon request of the applicant or licensee in writing, the Commission shall furnish said party with a definite statement of its findings of facts and its reason or reasons for refusing to grant the license or for its suspension or revocation of same. The findings of the Commission may be appealed to the Circuit Court of the County in which the principal office of the Commission is located, provided an appeal is taken within thirty days after such final determination of the Commission. Any person desiring to appeal, under this section, shall file with the Commission or some member thereof, a notice in writing that he appeals to the Circuit Court, with at least one solvent surety payable to the County wherein the case will be tried, conditioned to prosecute such appeal to effect, and upon failure so to do, to pay all costs and damages which may be taxed against him by the Circuit Court on such appeal. Such bond to be approved by the Circuit Clerk of the County and any cause so appealed shall be tried de novo in said Circuit Court. The Commission shall at least every three months hold an examination for the purpose of determining the qualifications of any applicants to become barbers or barber apprentices, and shall conduct said examination in accordance with the provisions hereof and in accordance with the rules and regulations promulgated by said Commission not inconsistent with this Act. Said examinations to be conducted in the city, town, or village, where the principal office of the Commission is located. Section VI. Any person violating the provisions of this Act shall upon conviction be punished by a fine of not more than one hundred dollars, or by imprisonment for a term not to exceed six months, or by both fine and imprisonment in the discretion of the court. This provision shall have application to any officer or agent of a corporation, co-partnership, or association operated in violation of this Act. Any court of competent jurisdiction in said County shall have full power to try any violation of this act, and upon conviction the court may at its discretion revoke the license of the person, co-partnership, asso-



ciation, or corporation violating the terms hereof. Before the Commissioners herein provided for shall receive a commission and enter upon the discharge of their duties, each shall take and subscribe the oath provided by law to be taken by elective officers of the State of Alabama.

Section 2. The provisions of this Act having the effect of reducing the annual renewal license fee for barbers from the previous sum of fifteen dollars to seven dollars and fifty cents shall not become effective until January 1st, 1936.

Approved September 13, 1935.

No. 490)

(H. 1069—Chichester.

### AN ACT

To further provide for safeguarding of public monies in the hands of Tax Collectors, County Treasurers, and County Treasurers of School Funds, in all counties in this State having a population of 300,000 or more according to the last or any subsequent Federal Census; and in accomplishment of said purposes to require official bonds to be given and executed by said officials; to prescribe the conditions of such bonds; to provide for the amount of such bonds to be fixed and prescribed by the County Commission or like governing body of such Counties; to provide for sureties thereon; to provide payment of premiums therefor; to provide for depositaries to be appointed by the County Commission or like governing body of such counties, in which such monies coming into the hands of such officials may be deposited; to provide for the liability of said officials and their bonds and sureties arising out of the deposit of public funds in depositaries so appointed; to provide for Tax Collectors in such counties making reports and disbursements and remittances of their funds; to repeal all laws or parts of laws in conflict with the provision of this Act; and to provide that if any section or part of section of this Act shall be declared unconstitutional then the remaining sections or parts of sections of this Act shall not be affected thereby.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the tax collector, county treasurer, and county treasurer of school funds of all counties in this State having a population of 300,000 or more according to the last or any subsequent Federal Census, shall before entering upon the discharge of their duties as such officers, execute a bond in duplicate, payable to the State of Alabama, in such penal sum as the County Commission or other like governing body of such counties in its unrestricted discretion shall prescribe, conditioned faithfully to discharge the duties of his office which are or may be required of him by law during the time he continues therein or discharges any of the duties thereof, and such bonds shall be approved by the County Commission or other like governing body of such counties.

Section 2. All official bonds of County officers provided in this Act may be made in a surety company or in surety companies qualified to do business in this State, or may be made with individual and/or personal sureties and/or banks or other corporations qualified to do business in this State, and authorized under their charters to make security or official bonds or to become surety on such bonds.

Section 3. That the premiums on official bonds made in surety companies shall be paid from the general fund of the County Treasury on claims duly presented to, audited and allowed by the County Commission or like County governing body, and on County warrants as other claims are paid and in the class of preference as now provided by law.

Section 4. That the bonds of all County officers referred to in this Act, shall be filed and recorded in the office of the Judge of Probate, and certified copies of the bonds of the Tax Collectors shall be filed with the State Comptroller.

Section 4½. The official bond of any County officer referred to in this act who is now in office or who has been elected to take office after the effective date hereof shall be governed by the terms of this Act and the County Commission or other like governing body of such counties shall re-examine all such bonds executed before the passage of this act with full power and authority to reduce or increase the same or to release the sureties from liability thereunder and require the execution of new bonds in lieu thereof.

Section 5. Upon the application of the Tax Collector, County Treasurer and County Treasurer of School Funds, in such counties it shall be the duty of the County Commission or other like governing body of such counties to appoint banks or trust companies as depositaries in which said officers may lawfully deposit public monies coming into their hands as such officers, which appointment shall be by proper resolutions spread upon the minutes of the County Commission or other like governing body of such counties.

Section 5½. It is expressly declared that this act shall not impair any lien or right of preference if any which the state or any political subdivision of the state now has in the liquidation of any insolvent bank or depository in which public funds are deposited but all such liens or rights of preference if any as they now exist in all of the other counties of the state shall be and remain in force in the counties affected by the provisions of this act.

Section 6. If any monies so deposited are dissipated or lost by the reason of the insolvency or failure of such banks or trust companies, or any of them, appointed as such depositaries as provided in Section 5 hereof, such dissipation or loss shall not constitute a liability of said officers nor a claim on the official bond of said officers nor a liability of the sureties thereon.

Section 7. Such Tax Collector on the first and fifteenth days of November in each year, and on the first and fifteenth days of each month thereafter until he makes his final settlement for such year, shall make under oath to the County Treasurer, or if there be no County Treasurer in the County, to the custodian of the funds of the County, an itemized report, in writing, copies of which shall be by such Tax Collector forwarded to the State Comptroller and to the State Treasurer, setting forth separately the taxes collected by him for the State and County since the making of his last report, and within five days after making such report he must pay to the State Treasurer all State Taxes then due from him to the State, and he must also pay to the County Treasurer, or, if there be no County Treasurer in the County, to the custodian of the funds of the County, all County taxes then due from him to the County, by him before that time collected. The County Treasurer, or if there be no County Treasurer in the County, then the Custodian of the funds of the County, shall give to the Tax Collector a receipt in duplicate for such semi-monthly report, one of which duplicates shall be promptly forwarded to the State Comptroller by the Tax Collector.

Section 8. That all laws and parts of laws, local, general or special, in conflict with the provisions of this Act be and the same hereby are repealed.

Section 9. If any section or part of section of this Act be declared unconstitutional, such unconstitutionality shall not affect the remaining sections or parts of sections of this Act.

Section 10. This Act shall take effect immediately upon its approval by the Governor.

Approved September 13, 1935.

No. 493)

(S. 77—Will O. Walton

## AN ACT

To provide for the promotion, encouragement, development and regulation of air navigation, air navigation aids and facilities, airmen and aircraft; to provide for the survey, location, mapping and development of State Airways and Airway Facilities; to provide for the registration and issuance of permits to operators, aircraft and airmen, suspension and revocation of such permits; to provide for the encouragement of the location in the State of Aeronautical industries; to create a commission for the administration of this Act and for the enforcement of the laws of the State of Alabama and of the rules and regulations established by said Commission; to define and describe the powers, duties, responsibilities and privileges of said Commission; and to make an appropriation for the purpose of this Act.

*Be it enacted by the Legislature of Alabama:*

Section 1. **SHORT TITLE:** This Act may be referred to and cited as "The State Aviation Commission Act."

Section 2. DEFINITIONS: When used in this Act. (a) "Aeronautics" means the act or practice of the art and science of transportation by aircraft, and operation, construction, repair or maintenance of aircraft, airports, landing fields, landing strips, air navigation facilities or air instruction. (b) "Aircraft" means any contrivance now known or hereafter invented used or designed for navigation of, or flight in the air. (c) "Public Aircraft" means aircraft used exclusively in the governmental service, or in the service of any state or territory thereof, including Military and Naval aircraft. (d) "Civil Aircraft" means any aircraft other than a public aircraft. (e) "Airport" or "Airpark" means any area, either of land or water, which is used for or which is made available for the landing and take-off of aircraft, and which provides facilities for the shelter, supply and repair of aircraft, and which, as to size and design, has (1) at least 2000 feet of effective landing length in all directions, with clear approaches, and which field shall be in good condition for landing at all times, or has (2), three or more landing strips not less than 300 feet wide, permitting landing in at least six directions at all times, with at least one landing strip aligned with the general direction of the prevailing wind, the landing strips not to cross or converge at angles of less than 40 degrees, nor any of the landing strips to be less than 2,000 feet in effective length with clear approaches or has (3) two landing strips, one aligned with the general direction of the prevailing wind, permitting at least 4-way landing at all times and having clear approaches, the landing strips to be at least 300 feet wide and at least 2,000 feet in effective length, and not to cross or converge at any angle less than 60 degrees; and which, in any case hereinbefore mentioned, meets the minimum requirements as to surface, marking, equipment, and management as may from time to time be provided, by the State Aviation Commission. (f) "Landing Field" means any area, either of land or water, which is used or which is made available for the landing and take-off of aircrafts, which may or which may not provide facilities for the shelter, supply, and repair of aircraft, and which meets the minimum requirements as to size, design, surface marking, equipment, and management as may from time to time be provided by the State Aviation Commission. (g) "Landing Strip" means an area, either of land or water, which is available for the landing and take-off of aircraft, having not less than 200 feet of usable width and not less than 1,500 feet of usable length, the use of which shall, except in case of emergency, be only as provided from time to time by the regulations of the State Aviation Commission. (h) "Person" means any individual, association, co-partnership, firm, company, corporation, or other association of individuals. (i) "Air Instruction" means the imparting of aeronautical information in any air school, flying club, or by any aviation instructor. (j) "Air School". Any person

engaged in giving instruction, or offering to give instruction in aeronautics—either in flying or ground subjects, or both—for or without hire or reward, and advertising, representing, or holding himself or itself out as giving or offering to give such instruction, shall be termed and considered an “air school”. (k) “Flying Club”. Any person (other than an individual) who, neither for profit nor reward, owns, leases, or uses one or more aircraft for the purpose of instruction, pleasure, or both, shall be termed and considered a “Flying Club”. (l) “Aviation Instructor” means any individual engaged in giving instructions or offering to give instruction, in aeronautics—either in flying or ground subject, or both—for or without hire or reward, without advertising such occupying, without calling his facilities an “Air School” or anything equivalent thereto, or without employing or using other instructors. (m) “Airmen”. The term “Airmen” means any individual (including the person in command and any pilot, mechanic or member of the crew) who engages in the navigation of aircraft while under way, and of any individual who is in charge of inspection, overhauling or repairing of aircraft. (n) “Air Navigation Facility”. The term “Air Navigation Facility” includes any airport, airpark, intermediate landing field, light or other signal structure, air-marking, radio direction finding facility, radio or other electrical communication facility, and any other structure or facility used as an aid to air navigation. (o) “Airways” The term “Airway” means a route in the navigable air space designated by the Secretary of Commerce of the United States or the State Aviation Commission, as a route suitable for interstate, intra-state or foreign air service or travel. (p) “Operator” means any person engaged in aviation or aeronautics rendering or offering to render service to the public. (q) “Fixed Base Operator” means any person or firm engaged in aviation or aeronautics, rendering or offering to render service to the public, maintaining headquarters at any fixed point, and maintaining an office or established aviation business at said point. Such business shall offer one or more of the following services: Passenger carrying, charter service, flying school of instruction, airplane sales and service. Fixed Base Operators are distinguished from operators in that this description is not meant to cover the operator who merely stores his airplanes on a certain field and does most of his or their business by traveling from place to place. (r) “Airways—Highways”. For the purpose of the administration of this Act all airways’ facilities, airports, air markings, air beacons, and all such equipment as are used in connection with same are hereby defined as highways and airways’ equipment.

**Section 3. STATE AVIATION COMMISSION:** There is hereby created a State Aviation Commission which shall be and is

herewith designated as the "Aviation Division" of the State Highway Department. The State Aviation Commission shall be composed of five members who shall be known as the State Aviation Commission. The chairman shall be ex-officio a member of the state Highway Commission in so far as matters relating to aviation and aeronautics are concerned. The State Aviation Commission shall be appointed by, and serve at the pleasure of the Governor, and said Aviation Commission will serve without compensation. The State Aviation Commission shall be qualified as follows: One commissioner shall be appointed from the fixed-based operator of the State, he having been in the business as such for a period of one year next preceding his appointment. He also must have been a licensed pilot of the Grade of Transport, licensed by the Department of Commerce, Bureau of Air Commerce for at least three years next preceding his appointment and shall have at least one thousand certified hours in the air and if said operator should discontinue his business as a fixed-based operator during his tenure in office said discontinuance shall automatically remove him from office. One Commissioner shall be appointed from the private airplane owners of the State. Said Commissioner shall have **owned an airplane, licensed by the Department of Commerce, Bureau of Air Commerce**, for at least one year next preceding his appointment. He also must have been a pilot licensed by the Department of Commerce, Bureau of Air Commerce of a grade not less than private pilot of a period of at least one year next preceding his appointment and shall have not less than five hundred certified hours in the air. If said Commissioner shall change his status by discontinuing to be either a non commercial owner or licensed pilot for a period of more than six months at any one time during his tenure in office he shall automatically be removed from office. One Commissioner shall be appointed from the airport managers of the State. He shall be a full-time manager of a regular established airport, as defined by this Act, in the State of Alabama. If during his tenure in office he shall discontinue his connection as airport manager as described heretofore said discontinuance shall automatically remove him from office. One commissioner shall be appointed from the State at large who holds or has held an officially recognized pilot's rating in the armed forces of the United States. One Commissioner shall be appointed from the State at large. All commissioners shall be qualified voters of the State of Alabama. The Chairman of the Commission shall be appointed by the Governor.

Section 4. **POWERS AND DUTIES OF COMMISSION:**  
**ORGANIZATION: SEAL: MEETINGS:** The State Aviation Commission shall, within thirty days after its appointment, organize, adopt a seal for the commission and make such rules and reg-

ulations for the administration of the commission not inconsistent herewith as it may deem expedient, and may from time to time amend such rules and regulations. The Commission shall at this time set date and place for annual meeting at which time the commission shall meet and consider all matters proper to be presented before them and other things for their action and decision. Three members shall compose a quorum. Special meetings may be called either by the Governor or the Chairman of the Commission, or by any three members of the Commission, by mailing to each Commissioner a notice to his last known address ten days prior to the meeting date. All regular and special commission meetings shall be open to the public and ten days notice shall be given to all registered companies, corporations, or individuals, by mailing to their registered address notice of such meetings. All decisions shall be made by a majority vote of the Commissioners present at any meeting. The said Commission shall report in writing to the Governor on or about December 1, of each year, and said report shall contain a summary of its proceedings during the year, a detailed and itemized statement of all the revenues and expenditures made by or in the behalf of the Commission, and such other information as the Commission may deem necessary or useful and any additional information which may be requested by the Governor. The Fiscal Year of the Commission shall conform to the Fiscal Year of the State.

**Section 5: POWERS AND DUTIES OF COMMISSION:**  
**EMPLOYEES:** The Commission shall appoint and employ as a full time executive, a Director of Aeronautics. The Commission may employ such additional clerical and other employees and assistants as it may deem necessary for the proper transaction of its business, and shall fix all salaries of employees of the Commission, subject to the approval of the Governor. The Director of Aeronautics shall hold a rating as a pilot from the Department of Commerce, Bureau of Aeronautics, of the Grade of Transport, before his appointment becomes effective. The Director shall be a qualified voter of the State of Alabama and shall be more than twenty-seven years of age and shall have at least one thousand certified hours in the air. The commission shall have the power to delegate to the director or other employees of the Commission any and all powers invested in the Commission by this Act. The Commission, aeronautical advisors and employees of the Commission shall be reimbursed for all actual and necessary traveling expenses and disbursements incurred by them in the discharge of their official duties authorized by the Commission. The Commission shall also have the power and authority to purchase, lease, hire, or otherwise obtain, and to maintain and operate such equipment (including airplanes), apparatus, materials or supplies as may

be deemed by the Commission necessary or convenient to the effectuation of the purposes of this Act, subject to the approval of the Governor.

**Section 6: POWERS AND DUTIES OF COMMISSION: OFFICE AND EXPENSES:** The State shall provide suitable offices for the Commission in such city, as the Commission may designate and the Governor may approve and may incur the necessary expense for office furniture, stationery, printing, incidental expenses, and other expenses necessary for the enforcement of this Act, and the genral promotion of aeronautics within the State.

**Section 7: POWERS AND DUTIES OF COMMISSION: PROMULGATION OF RULES AND REGULATIONS:** It shall be the duty of the Commission to foster air commerce within the State of Alabama and the Commission shall have the supervision over the following: All air markings within the State with the exception, that it is not to have supervision over any air marking established or under any supervision of the Department of Commerce. Power to adopt as a state rule any rule adopted by the Department of Commerce, Bureau of Aeronautics. Power to prescribe such rules and regulations as it may deem necessary for the regulation of airplanes and pilots not licensed by the Department of Commerce, Bureau of Aeronautics. No rules or regulations prescribed by the Commission under the authority of this section shall be inconsistent with the then current Federal legislation governing aeronautics and the regulations duly promulgated thereunder.

**Section 8. AIRCRAFT: CONSTRUCTION: DESIGN AND AIRWORTHINESS: FEDERAL LICENSE:** It shall be unlawful for any person to operate, or pilot, or navigate, or cause or authorize to be operated, piloted, or navigated, any aircraft within the State unless such aircraft has an appropriate effective license, issued by the Department of Commerce of the United States or shall have obtained a State Permit from the Aviation Commission which permit will limit the activities of such airplane provided however, that no passenger shall be carried in an unlicensed airplane within the State. The Commission may, at his discretion, grant a waiver on passenger carrying, but not for hire or reward. It is further provided that the foregoing restrictions shall not apply to public aircraft of the United States, or public (Military) or Naval aircraft of any State, territory or possession thereof, or to aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft.

**Section 9. QUALIFICATIONS OF PILOTS: FEDERAL LICENSE:** Any person engaging within this State in navigating



aircraft in any form of navigation, shall have the qualifications necessary for obtaining and holding a pilot's license issued by the Department of Commerce of the United States, it shall be unlawful for any person to pilot any aircraft in this State, unless such person is the holder of a correct effective pilot's license issued by the Department of Commerce of the United States or State permit; Provided, however, that this restriction shall not apply to those persons operating public aircraft of the United States, or public Military or Naval aircraft of any State, territory, or possession thereof or operating any aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operating of such licensed aircraft.

**Section 10. POSSESSION AND DISPLAY OF LICENSE: BURDEN OF PROOF:** The certificate of the license or permit required for pilots shall be kept in the personal possession of the licensee when he is operating aircraft within this State and must be presented for inspection upon the demand of any passenger, or any peace officer of the State, any authorized official person in charge of any airport in this State upon which he shall land, or upon the reasonable request of any person. The aircraft license, or permit, must be carried in the aircraft at all times and must be conspicuously posted therein where it may readily be seen by passengers or inspectors; and such license must be presented for inspection upon the demand of any passenger, any peace officer of this State, any authorized official or employee of the State Aviation Commission or any official, manager or person in charge of any airport in this State upon which it shall land, or upon the reasonable request of any other person. In any criminal prosecution under any of the provisions of this Act, a defendant who relies for his justification upon a license of any kind shall have the burden of proving that he is properly licensed, or is the possessor of a proper license, as the case may be, and a certificate from the Aviation Commission or its duly authorized agent stating that a diligent search has been made in the records of its office and that from their records it appears that no such license was issued up to the date of making such certificate shall be prima-facie evidence that no license or permit has been issued.

**Section 11. POWERS AND DUTIES OF COMMISSION: ENCOURAGEMENT:** The Commission shall assist in the development of aviation and aviation facilities within the State for the purpose of safeguarding the interests of those engaged in all phases of the industry and of the general public, and of promoting aeronautics. Accordingly, the Commission is empowered to expend any or all the monies allocated to, and deposited in the State Aviation Fund for the acquisition or enlargement by purchase, grant, lease, condemnation, or other means, and for the construc-

tion, operation and maintenance of, airports, airparks, landing fields, or emergency landing strips within this State for air marking and/or for other aeronautical facilities or services within this State for the safety and advancement of aeronautics, which shall include the joint establishment or provision for such aeronautical facilities or services in cooperation with other State or Federal Department or with other political subdivisions of this State. Whenever, in the judgment of the Council, Commission or other governing body, of any county and/or Municipality of this State, it shall appear necessary or expedient for such county and/or Municipality to acquire privately owned land for airports and/or airpark uses, either within or without the geographical limits thereof, such county and/or Municipality shall have power to acquire the same in fee simple by exercise of the right of eminent domain, by purchase or by gift. Each such County and/or Municipality shall also have the power to acquire for a term of years a lease or leases on land for airport and/or airpark uses. In the event any County and/or Municipality shall resort to condemnation proceedings for the acquisition of lands for airport and/or airpark uses, such proceedings shall be governed in all respects by the laws of this State applicable to the condemnation by such county and/or Municipality of lands for other public purposes; provided further, however, that such county or municipality upon the passage or proper and regular Resolutions and/or Ordinances authorising such action may provide all or part of the cost of lands so acquired for airport and/or airpark uses by giving as security a regular mortgage on the lands so acquired.

**Section 12. POWERS AND DUTIES OF COMMISSION: REGISTRATION:** The Commission shall have the power to make such reasonable rules and regulations governing and requiring the registration of all pilots, airplane owners, and operators of regular established airports, airparks, schools, and such other air navigation facilities as the Commission may deem necessary with the Commission, and to furnish such information as may be designated on forms prescribed by the Commission. All permits and/or certificates issued by the Commission shall be on forms prescribed by the Commission, which shall be furnished to the Commission on its order at the expense of the State Aviation Fund. Duplicate permits or certificates may be issued to airmen or aircraft upon affidavit of the airmen or aircraft owner or leasee to whom original was issued that same has been lost or destroyed. The form, or application, or certificate, shall be the same as for an original permit or certificate. Under no condition is any fee charged for any of the foregoing services.

**Section 13. POWERS AND DUTIES OF COMMISSION: INVESTIGATIONS AND HEARINGS:** The Commission or any

commissioner, or officer of the Commission designated by the Commission, shall have the power to hold investigations, inquiries and hearings concerning matters covered by the provisions of this Act, and all accidents in aeronautics within this State. All hearings conducted by the Commission shall be open to the public. Each Commissioner, and every officer of the Commission designated by it, to hold any inquiry, investigation or hearing, shall have the power to administer oaths and affirmation, certify to all official acts, issue subpoenas, compel the attendance, and testimony of witnesses, and the production of papers, books, and documents. In case of failure to comply with any subpoena or order issued under authority of this Act, the State Aviation Commission, or its authorized representative, may invoke the aid of any county or Circuit or Superior Court in this State. This court may thereupon order the witness to comply with the requirements of the subpoena or order to give evidence touching the matter in question. Any failure to obey the order of said Court may be punished by the Court as contempt thereof.

**Section 14. POWERS AND DUTIES OF COMMISSION: INVESTIGATIONS AND HEARINGS: RECORDS AND TESTIMONY:** In order to facilitate the making of investigations by the State Aviation Commission, in the interest of the public safety and the promotion of aeronautics the public interest requires and it is therefore provided that the reports of investigations or hearings, or any part thereof, or any testimony given thereat, shall not be admitted in evidence or used for any purpose in any suit, action, or proceedings growing out of any matter referred to in said investigation, hearings, or report thereof, except in case of criminal or other proceedings instituted by or in behalf of the Commission under the provisions of this Act, nor shall any commissioner or employee of the State Aviation Commission be required to testify to any facts ascertained in, or information gained by reason of, his official capacity, and, further, no Commissioner or employee of the State Aviation Commission shall be required to testify as an expert witness in any suit, action or proceedings involving any aircraft, copies of all records and papers in the office of the Commission, duly certified and authenticated by the seal of said Commission shall be received in evidence in all courts equally and with like effect as the original.

**Section 15. POWERS AND DUTIES OF COMMISSION: REGULATIONS FILED FOR INSPECTION: REPORT:** The Commission shall keep on file with the Secretary of State, and at the principal office of the Commission, a copy of all its rules and regulations for public inspection. On or before the thirty first day of December, in each year, the Commission shall make to the Governor a full report of its proceedings for the year ending the

first day of December in each year, and may submit with such report such recommendations pertaining to its affairs as seem to it to be desirable.

**Section 16. POWERS AND DUTIES OF COMMISSION: ENFORCEMENT COOPERATION:** It shall be the duty of the Commission, its members and employees, and every county and municipal officer charged with the enforcement of State and Municipal laws, to enforce, and assist in the enforcement of this Act. The Commission is further authorized in the name of the "People of the State of Alabama" to enforce the provisions of this Act by injunction in the District Courts of this State. Other Departments and political subdivisions of the State are further authorized to cooperate with the State Aviation Commission in the development of aeronautics and aeronautics facilities within the State. It shall be the duty of the Commissioner and all employees and/or appointees of the Aviation Commission to cooperate to the fullest extent with all Law Enforcement Bodies or Departments of the State in enforcing the Laws of the State. Every peace officer of the State shall also be charged with the additional duty of the enforcement of this Act, and the Commission by the terms of this Act shall be commissioned by the Governor as "Special Aeronautical Officers" and it shall be his duty to enforce the provisions of this Act and to make arrest of persons violating this Act, and shall have the same powers with reference to the enforcement of this Act as any other peace officer of the State. The Commission shall appoint Deputies, and may remove them at any time, to assist in the enforcement of this Act. Such Deputies shall be known as "Deputy Special Aeronautical Officers", and shall be required to pass an examination based on existing air laws and regulations prescribed by the Commission. The number of deputies so appointed shall not exceed seventy-five in number and at least one appointment as deputy shall be allotted to each county of the State and further neither the "Special Aeronautical Officers" nor their Deputies shall be entitled to any compensation for said duties. Said Special Aeronautical Officers and their Deputies shall, before entering into the duties of their respective offices, give bond with surety in the amount of One Thousand Dollars to be approved by the Secretary of State payable and conditioned as provided in Section 2595 of the Code of Alabama, 1923, and such bonds shall be recorded in the office of the Secretary of State, the premium on said bonds shall be paid by the Commission.

**Section 17. PROCEDURE FOR APPEAL:** Any person firm, or corporation, against whom an adverse ruling of any description has been made by the Commission, or its duly constituted agents, may file a written request with the State Aviation Commission at its office asking for a rehearing on the subject

matter. If such request is made in writing within ninety days of such adverse ruling the Commission may either grant or refuse a rehearing, or in case of further adverse ruling. If the Commission shall refuse a hearing the person, firm, or corporation, may then within ninety days file a precipe in the office of the Clerk of the Circuit or Superior Court, and summons shall thereupon be issued by the Clerk and shall be served upon the State Aviation Commission. Upon the filing of the precipe, the appeal shall be docketed for trial not less than ten days nor more than thirty days, after the service of the summons, and shall be tried by the Circuit or Superior Court without formal pleadings in term, time, or in vacation. Upon trial of the appeal the Court shall hear evidence as to matters concerning the order in question, as to the condition of the property in question and the manner of its operation, and shall enter judgment either in affirming or settling aside the order of the Commission, or the court may remand the matter to the Commission for further hearing. The filing of the precipe shall operate as supersedeas.

Section 18. **FAILURE TO FILE APPEAL: WAIVER:** If no appeal is taken from the order of the Commission within the period fixed, the party against whom the order was entered, shall be deemed to have waived the right to have the reasonableness or lawfulness of the order reviewed by a court and there shall be no trial of that issue in any court in which suit may be instituted for the penalty for failure to comply with the order.

Section 19. **PENALTY:** Any person failing to comply with the requirements of, or violating any of the provisions of this Act, or the rules and regulations, for the enforcement of this Act made by the State Aviation Commission, shall be guilty of a misdemeanor and punishable by a fine of not more than one hundred dollars or by imprisonment for not more than one month, or both, and or revocation of permit.

Section 20. **STATE AVIATION FUND:** There is hereby created a fund to be known as the "State Aviation Fund", and there is hereby appropriated out of the general funds of the State not otherwise appropriated the sum of \$15,000.00. And there shall also be credited to the State Aviation Fund any additional funds or monies that may be approved by the Governor and/or provided for by legislative action now or hereafter. The Commission is authorized to receive grants, donations, gifts, and loans of funds, monies, and/or equipment, materials and services, from the Federal, State, County and/or Municipal Government and/or their agencies, or from private individuals, companies, etc., provided that a record of all such grants, donations, etc., shall be kept by the commission and provided further that all funds received in such manner shall be paid into the State Treasury and credited

to the State Aviation Fund and disbursed as provided for in this Act. All funds now or hereafter credited to the "State Aviation Fund", are hereby appropriated for the use of the Commission in the effectuation of the purposes of this Act: provided no funds shall be disbursed under this Act until first approved by the Governor of Alabama.

Section 21. **SEPARABILITY**: If any provision of this Act is declared unconstitutional the validity of the remainder of this Act and the application of such provision to other persons and circumstances shall not be effected thereby.

Section 22. **REPEAL**: All Acts or parts of Acts which are inconsistent with the provisions of the Act are hereby repealed.

Section 23. **TIME TAKING EFFECT**: This Act shall take effect immediately upon its approval by the Governor.

Approved September 13, 1935.

No. 494)

(S. 348—Mooneyham

### AN ACT

To exempt disabled Veterans of the World War and of the Spanish-American War and of the Civil War from the payment of business or occupational licenses in the State of Alabama, and to regulate and restrict such exemptions, and to provide the manner in which such exemptions shall be allowed.

*Be it enacted by the Legislature of Alabama:*

Section 1. That every bona fide permanent resident of the State of Alabama who served as an officer or enlisted man in the United States Army, Navy or Marine Corps during the World War between April 6, 1917 and November 11, 1918, or in the Spanish-American War between April 21, 1896 and July 4, 1902, or who served as an officer or enlisted man in the Army or Navy of the Southern Confederacy during the Civil War, and who, at the time of his application for license, as hereinafter provided for shall be physically disabled to the extent of twenty-five per cent or more, shall, upon sufficient identification and upon sufficient proof of such disability and upon sufficient proof of being a permanent resident in this State, and upon the production of an honorable discharge from the service of the United States Army, Navy, or Marine Corps during the World War or Spanish-American War, within the respective limits of time hereinabove prescribed, or from the service of the Southern Confederacy during the Civil War, be exempt from business or occupational license taxes to the extent, and subject to the conditions hereinafter specified. Provided that no exemption, deduction or commutation shall be allowed any

person from the license or tax on what is commonly known as rolling stores.

Section 2. That each such veteran who shall engage in, or carry on, any business or occupation as a means of livelihood through the personal efforts of such person or through the personal efforts of such person and not more than one employee, helper or apprentice, for which business or occupation a license tax is prescribed by the State of Alabama, shall be entitled to a license from the State to so engage in, or carry on, such business or occupation upon payment of the license tax so prescribed, less, all, or such portion of, such license tax as shall not exceed Twenty five Dollars (\$25.00); provided, however, that no such person shall be entitled to the prescribed deduction or commutation in respect of more than one business or occupation for which a license tax is prescribed by law.

Section 3. That each such person who shall engage in, or carry on, any business or occupation as a means of livelihood through the personal efforts of such person or through the personal efforts of such person and not more than one employee, helper or apprentice, for which business or occupation a license tax is prescribed by or for any County of Alabama, shall be entitled to a license from such county to so engage in, or carry on, such business or occupation upon payment of the license tax so prescribed, less all, or such portion of, such license tax as shall not exceed Twenty five Dollars (\$25.00); provided, however, that no such person shall be entitled to the prescribed deduction or commutation in respect of more than one business or occupation for which a license tax is prescribed by law.

Section 4. That each such person who shall engage in, or carry on, in his own name, any business or occupation as a means of livelihood through the personal efforts of such person or through the personal efforts of such person and not more than one employee, helper or apprentice, for which business or occupation a license tax is prescribed by any Municipality of Alabama, shall be entitled to a license from such Municipality to so engage in, or carry on, such business or occupation upon payment of the license tax so prescribed, less, all, or such portion of, such license tax as shall not exceed Twenty Five Dollars (\$25.00) provided, however, that no such person shall be entitled to the prescribed deduction or commutation in respect of more than one business or occupation for which a license tax is prescribed by law.

Section 5. Any person who assists or serves such veteran in the conduct, or carrying on, of such veteran's business or occupation shall be deemed an employee, helper or apprentice, whether such assisting person be paid any compensation for his assistance or service or not. The term "License tax", as used in this Act,

shall be deemed to include any tax prescribed by a license tax schedule, but not to exclude any license tax otherwise prescribed.

Section 6. It shall be the duty of each and every official empowered or charged by law with the duty of issuing licenses in this State to issue a license to every such person as may come within the provisions of this Act, and such license, when issued, shall be marked across the face thereof "War Veteran's License—Not Transferable". Provided that any person who transfers, or assigns or attempts to transfer or assign the "War Veterans License" issued under the provision of this Bill shall forfeit all rights to any exemptions, deductions or commutation allowed by the terms of the said bill.

Section 7. All licenses issued under this Act shall be in the same general form as other licenses and shall expire at the same time as other licenses are fixed by law to expire.

Section 8. Proof of disability shall be made by exhibiting a Federal Government rated disability certificate to an extent of twenty-five per cent or more, or an affidavit from an examining physician of the United States Veteran's Bureau showing that the applicant for license is **physically disabled to the extent of at least twenty-five per cent** or by the production of a pension certificate issued by the United States Government or by the State of Alabama or by a certificate of the county health officer of the county in which the veteran resides, or if there be no county health officer a certificate by a reputable physician in the county in which the veteran resides, said physician's certificate to be attested before some officer authorized to administer oath.

Section 9. No exemption or commutation herein provided for shall be allowed any corporation, association or partnership, except as to partnerships, the prescribed exemption or commutation shall be allowed a partnership when each partner thereof would be individually entitled to an exemption hereunder: "Provided that an individual entitled to such exemption shall not be denied it by reason of being a member of a partnership in those cases when license is required of the individual members of a partnership and not of the partnership as such.

Section 10. Any license issued under the provisions of this Act shall be and/or become null and void and shall afford no protection against a prosecution for doing business without license if the same be fraudulently obtained, or if the business conducted thereunder be not bone fide the business of the veteran licensee, or if the veteran shall at any time conduct his business in such a manner as that he would not be entitled to exemption under the terms of this Act.

Section 11. No license herein provided for shall be issued in any county other than the county wherein the disabled veteran is



a bona fide resident, provided, however, that should a disabled veteran holding a veterans license desire to engage in a business or occupation in a county in this State other than the county in which he has secured such veterans license, he shall produce the license issued to him in the county of his residence to the probate judge of the county where he desires to do business and if the license in such other county together with the license issued in the county of his residence does not exceed the Twenty Five Dollars (\$25.00) exemption herein granted he shall be exempt to such extent, and such probate judge shall countersign the license obtained in his county without charge or fee and it shall thereafter be as valid as though issued by the probate judge of the county of his residence.

Section 12. Any Probate Judge, City Clerk, or City Comptroller, who wilfully fails or refuses to issue any licenses applied for by a veteran entitled to the benefits of this Act shall be guilty of a misdemeanor and shall be prosecuted as provided by law.

Section 13. If any section or provision, phrase or sentence of this Act shall be held void or unconstitutional such holding shall not affect or destroy the validity or constitutionality of any other section, provision phrase or sentence of such Act which is not of itself unconstitutional or void.

Section 14. Any veteran whose property both real and personal is valued at Five Thousand (\$5000.00) Dollars or more shall be precluded from the exemptions granted herein; nor shall a veteran whose net annual income is Twelve Hundred Dollars (\$1200.00) or more be entitled to the exemptions herein granted.

Section 15. This Act shall take effect upon its approval by the Governor.

Approved September 13, 1935.

No. 495)

(S. 398—Swift.

## AN ACT

To provide for the revision and codification of the general laws of Alabama relating to education.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the State Superintendent of Education is hereby authorized and directed to request the Governor to designate and assign one of the assistant attorneys-general to serve in the capacity of School Code Commissioner whose duty it shall be to revise and codify the general laws of Alabama relating to education; provided, that the Governor shall have authority by and with the advice and consent of the Attorney General to make such designation and assignment; provided, that an assistant attorney-

general so designated and assigned shall serve without extra compensation.

Section 2. That said Commissioner shall prepare appropriate chapters, titles, and sub-divisions of titles, for each chapter, clearly, briefly, and succinctly expressive of the subjects treated, and place all public laws appertaining to the subject in appropriate order. Said Commissioner shall not simply transfer or transcribe the laws enacted by the Legislature, but shall so alter the phraseology as to eliminate and exclude all redundancy, prolixity and obscurity of expression, and if there are several acts relating to, or embracing the same subject, they shall be assembled, combined, condensed, and so worded as to clearly and fully set forth the substance and meaning of the whole, having regard to the judicial exposition thereof. Wherever it shall be apparent that there are legislative omissions or mistakes, in any statute, said Commissioner shall supply and rectify the same so as to correct and perfect such statute, and render its meaning clear and its operation complete. He shall prepare also a proper index for the code as revised.

Section 3. That said Commissioner, shall by the opening date of any special session of the Legislature called by the Governor, if revision of the school code is included in the call, deliver to the Governor a typewritten draft of the code of school laws as revised, together with a sworn statement indicating all changes, except changes in language, which he shall have made in existing laws.

Section 4. That the code of laws relating to education as revised under the provisions of this act shall, upon adoption by the Legislature, become operative thirty days after the Governor shall have issued a proclamation announcing its promulgation.

Approved September 13, 1935.

No. 496)

(S. 402—Walton

### AN ACT

To provide aid to dependent children, to authorize the State Department of Public Welfare to administer such aid, to authorize the county departments of public welfare to administer such aid, under the supervision of the State Department of Public Welfare, in the several counties, to authorize the County Board of Revenue or Court of County Commissioners or other governing body of the county to appropriate funds for aid to dependent children, and to authorize the State Department of Public Welfare to reimburse said counties for one-half of the sum so expended in the several counties under certain conditions.

*Be it enacted by the Legislature of Alabama:*

Section 1. For the purpose of providing aid to needy, dependent children, the County Board of Revenue, or Court of County

Commissioners, or other governing body of the County, shall have authority to appropriate such funds as it may deem to be necessary in accordance with the provisions of this Act.

Section 2. (a) For the purposes set forth in this Act, the term "dependent child" means a child under the age of 16 years who has been deprived of parental support or care by reason of the death, continued absence from home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, step-father, step-mother, step-brother, step-sister, uncle, or aunt, in a place of residence maintained by one or more of such relatives as his or their own home. (b) The term "aid to dependent children" means money payments with respect to a dependent child or dependent children.

Section 3. (a) The State Department of Public Welfare shall have the administration of all funds appropriated or made available to it for the purposes of this Act. It shall be empowered to cooperate with the Federal Government in the development of plans and policies for aid to dependent children. It shall receive and administer such Federal funds as are made available and shall prepare and submit such reports as may be required by the Federal Government with respect to aid to dependent children. (b) County departments of public welfare shall be charged with the administration of all funds appropriated or made available in the several counties for aid to dependent children.

Section 4. Any person having knowledge that any child is dependent and that the interest of the public requires that such child be granted aid, may bring such fact to the attention of the County Department of Public Welfare in the county where the dependent child has residence.

Section 5. The County Department of Public Welfare shall make an investigation and examination of the circumstances of such child. Such investigation and examination shall be made in accordance with standards prescribed by the State Department of Public Welfare. A report of such investigation and examination shall be made in writing and shall become a part of the records of the County Department of Public Welfare. If such child shall be found (a) to be in need and (b) to have resided in the state for one year immediately preceding the application for such aid, or (c) who was born within the state within one year immediately preceding the application, or (d) whose mother has resided in the state one year immediately preceding the birth of said child, the County Department of Public Welfare shall grant such aid as may be necessary for the support of such child in its own home or in the home of one of its relatives as set forth in this Act in a manner compatible with decency and health. In case application for

aid for a dependent child is rejected by the County Department of Public Welfare, appeal may be had to the State Department of Public Welfare.

Section 6. The County Department of Public Welfare shall prepare annually a budget showing the amount needed for the operation of this Act in its county. Such budget shall set forth the number of children aided, grants to individual children, and administrative expenses instant to the operation of the County Department of Public Welfare. The County Department of Public Welfare shall be authorized to accept and administer any state or Federal funds made available to the county to assist in carrying out the purposes of this Act.

Section 7. The State Department of Public Welfare is authorized, and it shall be its duty, to develop standards of service for the administration of aid to dependent children in the state, to supervise the operation and administration of this service, to provide such forms, records, reports, and rules of procedure as may be necessary in order that there shall obtain uniform practices with respect to the administration of this Act throughout the State.

Section 8. The State Department of Public Welfare shall reimburse the county for one-half of the funds expended by the County Department of Public Welfare for aid to dependent children provided said funds are expended in accordance with rules, regulations and standards prescribed by the State Department of Public Welfare. Provided further, that the State Department of Public Welfare may in its discretion use not more than one-fifth of the funds appropriated to it for this purpose as a state equalization fund to be made available under certain conditions to counties unable to provide adequate support for dependent children.

Section 9. The State Department of Public Welfare shall review and decide any appeal which may come to it from any person dissatisfied with the ruling of the County Department of Public Welfare in any particular case. The action of the State Department of Public Welfare shall be final.

Section 10. All funds appropriated or made available to the State Department of Public Welfare for assistance to the several counties in carrying out the provisions of this Act shall be allotted to the several counties on the basis of their expenditures for aid to dependent children provided, however, that the State Department of Public Welfare shall grant to each county an amount equivalent to one-half of their expenditures for administrative purposes in connection with the operation of this Act.

Section 11. It is hereby declared to be the Legislative intent that if this Act cannot take effect in its entirety because of the decision of any court holding unconstitutional the inclusion herein

of any part, paragraph, word, or phrase the remaining provisions of the Act shall be given full force and effect as completely as if the part held unconstitutional had not been included herein.

Section 12. All laws and parts of laws, whether general, local or special, in conflict with any of the provisions of this Act are hereby expressly repealed.

Approved September 13, 1935.

No. 497)

(S. 406—Walton

### AN ACT

To provide authority for the State Board of Education and/or the trustees of all State Institutions, where education is a part of the program of the Institution, to borrow money from Federal Agencies for the erection of buildings, beautification of grounds, and the erection and maintenance of swimming pools at the several State Institutions; to authorize the issuance of bonds, warrants or other evidences of debt for the repayment of the amount borrowed with interest at a rate not to exceed four per cent semi-annually, and to pledge therefor the fees from students to be levied by the Institution for which the money is borrowed, and any other moneys not appropriated by the State to said Institution; to make such bonds, warrants or other evidences of debt not an obligation of the State and not payable out of any moneys provided by the State.

*Be it enacted by the Legislature of Alabama:*

Section 1. That authority is hereby granted to the State Board of Education and/or the trustees of all State Institutions respectively, where education is a part of the program of the Institution, to borrow money from Federal Agencies for the erection of buildings, beautification of grounds, and the erection and maintenance of swimming pools at the several State Institutions, and to comply with the requirements of such Federal Agencies promulgated in reference to monies so loaned.

Section 2. The State Board of Education and/or the trustees of the State Institution in question are authorized to issue bonds, warrants or other evidences of debt, for the repayment of the amount borrowed under Section 1 of this Act, with interest at a rate not to exceed four per cent payable semi-annually, and to pledge therefor the fees from students to be levied by the Institution and other moneys not appropriated by the State to the Institution.

Section 3. The bonds, warrants or other evidences of debt issued under the provisions of this Act shall not be an obligation of any nature whatsoever of the State, and shall not be payable out of any moneys provided for or appropriated by the State to the Institution in question.

Section 4. This Act shall become effective immediately upon approval by the Governor.

Approved September 13, 1935.

No. 498)

(S. 407—Fletcher

### AN ACT

Relating to and Regulating the manufacture, sale, possession, control, prescribing, administering, dispensing, compounding, mixing, cultivation, and growth of narcotic drugs.

*Be it enacted by the Legislature of Alabama:*

Section 1. The following words and phrases, as used in this Act, shall have the following meanings, unless the context otherwise requires: (1) "Person" includes any corporation, association, copartnership, or one or more individuals. (2) "Physician" Means a person authorized by law to practice medicine in this State and any other person authorized by law to treat sick and injured human beings in this State and to use, mix or otherwise prepare narcotic drugs in connection with such treatment. (3) "Dentist" Means a person authorized by law to practice dentistry in this State. (4) "Veterinarian" means a person authorized by law to practice veterinary medicine in this State. (5) "Manufacturer" means a person who by compounding, mixing, cultivating, growing, or other process, produces or prepares narcotic drugs, but does not include an apothecary who compounds narcotic drugs to be sold or dispensed on prescriptions. (6) "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced or prepared, on official written orders, but not on prescriptions. (7) "Apothecary" means a licensed pharmacist as defined by the laws of this State, and, where the context so requires, the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a licensed pharmacist; but nothing in this Act shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right, or privilege, that is not granted to him by the pharmacy laws of this State. (8) "Hospital" means an institution for the care and treatment of the sick and injured, approved by the State Board of Health as proper to be intrusted with the custody of narcotic drugs under the direction of a physician, dentist, or veterinarian. (9) "Laboratory" means a laboratory approved by the State Board of Health as proper to be intrusted with the custody of narcotic drugs and the use of narcotic drugs for scientific and medical purposes and for the purposes of instruction. (10) "Sale" includes barter, exchange, or gift, or offer therefor, and each such

transaction made by any person, whether as principal, proprietor, agent, servant, or employee. (11) "Coca Leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine, or substances from which cocaine or ecgonine may be synthesized or made. (12) "Opium" includes morphine, codeine, and herein, and any compound, manufacture, salt, derivative, mixture, or preparation of opium, including apomorphine or any of its salts. (13) "Cannabis" includes the following substances under whatever names they may be designated. (a) the dried flowering or fruiting tops of the pistillate plant *Cannabis Sativa* L., from which the resin has not been extracted, (b) the resin extracted from such tops and (c) every compound, manufacture, salt, derivative, mixture, or preparation of such resin, or of such tops from which the resin has not been extracted (14) "Narcotic drugs" means coca leaves, opium, cannabis, and every substance neither chemically nor physically distinguishable from them. (15) "Federal Narcotic Laws" means laws of the United States relating to opium, coca leaves, and other narcotic drugs. (16) "Official written order" means an order written on a form provided for that purpose by the United States Commissioner of Narcotics, under any laws of the United States making provisions therefor, if such order forms are authorized and required by Federal Law, and if no such order form is provided, then on an official form provided for that purpose by the State Board of Health. (17) "Special written order" means a written order accompanied by a certificate of exemption, as required by the Federal Narcotic laws, to a person in the employ of the United States Government or of any State, Territorial, District, County, Municipal, or insular Government, purchasing, receiving, possessing, or dispensing narcotic drugs by reason of his official duties. (18) "Dispense" includes distribute, leave with, give away, dispose of, or deliver. (19) "Registry number" means the number assigned to each person registered under the Federal narcotic laws.

Section 2. It shall be unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense, or compound any narcotic drug, except as authorized in this Act.

Section 3. No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare narcotic drugs, and no person as a wholesaler shall supply the same, without having first obtained a license so to do from the State Board of Health; provided, however, that the provisions of this section shall not apply to the dispensing, administration, giving away, mixing or otherwise preparing any of the drugs mentioned in this Act by a registered physician, dentist or veterinarian in the course of his professional practice, and said drugs are dispensed, admin-

istered, given away, mixed or otherwise prepared for legitimate medical purposes.

Section 4. No license shall be issued under the foregoing section unless and until the applicant therefor has furnished proof satisfactory to the State Board of Health: (a) That the applicant is of a good moral character or, if the applicant be an association or corporation, that the managing officers are of good moral character. (b) That the applicant is equipped as to land, buildings, paraphernalia properly to carry on the business described in his application. (c) No license shall be granted to any person who has within five years been convicted of a willful violation of any law of the United States, or of any State, relating to opium, coca leaves, or other narcotic drugs, or to any person who is a narcotic drug addict. (d) The State Board of Health may suspend or revoke any license for cause.

Section 5. (1) A duly licensed manufacturer or wholesaler may sell and dispense narcotic drugs to any of the following persons, but only on official written orders: (a) To a manufacturer, wholesaler, or apothecary; (b) To a physician, dentist, or veterinarian; (c) To a person in charge of a hospital, but only for use by or in that hospital. (d) To a person in charge of a laboratory, but only for use in that laboratory for scientific and medical purposes. (2) A duly licensed manufacturer or wholesaler may sell narcotic drugs to any of the following persons: (a) On a special written order accompanied by a certificate of exemption, as required by the Federal Narcotic Laws, to a person in the employ of the United States Government or of any State, Territorial, District, County, Municipal, or Insular Government, purchasing, receiving, possessing, or dispensing narcotic drugs by reason of his official duties. (b) To a master of a ship or a person in charge of any aircraft upon which no physician is regularly employed, for the actual medical needs of persons on board such ships or aircraft, then not in port. Provided; such narcotic drugs shall be sold to the master of such ship or person in charge of such aircraft only in pursuance of a special order form approved by a commissioned medical officer or acting assistant surgeon of the United States Public Health Service. (c) To a person in a foreign country if the provisions of the Federal Narcotic laws are complied with. (3) An official written order for any narcotic drug shall be signed in duplicate by the person giving such order or by his duly authorized agent. The original shall be presented to the person who sells or dispenses the narcotic drug or drugs named therein. In event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such order for a period of two years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this Act. It



shall be deemed a compliance with this subsection if the parties to the transaction have complied with the Federal Laws, respecting the requirements governing the use of order forms. (4) Possession of or control of narcotic drugs obtained as authorized by this section shall be lawful if in the regular course of business, occupation, profession, employment, or duty of the possessor. (5) A person in charge of a hospital or of a laboratory, or in the employ of this State or of any other State, or of any political subdivision thereof, and a master or other proper officer of a ship or aircraft, who obtains narcotic drugs under the provisions of this section or otherwise, shall not administer, nor dispense, nor otherwise use such drugs, within this State, except within the scope of his employment or official duty, and then only for scientific or medicinal purposes and subject to the provisions of this Act.

Section 6. (a) An apothecary, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription of a physician, dentist, or veterinarian, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address and registry number under the Federal Narcotic Laws, of the person prescribing, if he is required by those laws to be so registered. If the prescription be for an animal, it shall state the species of animal for which the drug is prescribed. The person filling the prescription shall write the date of filling and his own signature on the face of the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this Act. The prescription shall not be refilled. (b) The legal owner of any stock of narcotic drugs in a pharmacy, upon discontinuance of dealing in said drugs, may sell said stock to a manufacturer, wholesaler, or apothecary, but only on an official written order. (c) An apothecary, only upon an official written order, may sell to a physician, dentist, or veterinarian, in quantities not exceeding one ounce at any one time, aqueous or oleaginous solutions of which the content of narcotic drugs does not exceed a proportion greater than twenty per cent of the complete solution, to be used for medical purposes.

Section 7. (1) A physician or a dentist, in good faith and in the course of his professional practice only, may prescribe, administer, dispense, mix or otherwise prepare narcotic drugs, or he may cause the same to be administered by a nurse or interne under his direction and supervision. (2) A veterinarian, in good faith and in the course of his professional practice only, and not for use by human being, may prescribe, administer, dispense, mix, or otherwise pre-

pare narcotic drugs, and he may cause them to be administered by an assistant or orderly under his direction and supervision. (3) Any person who has obtained from a physician dentist, or veterinarian any narcotic drug for administration to a patient during the absence of such physician, dentist, or veterinarian, shall return to such physician, dentist, or veterinarian any unused portion of such drug, when it is no longer required by the patient.

Section 8. Except as otherwise in this Act specifically provided, this Act shall not apply to the following cases: (1) Prescribing, administering, dispensing, or selling at retail of any medicinal preparation that contains in one fluid ounce, or if a solid or semi-solid preparation, in one avoirdupois ounce. (a) not more than two grains of opium, (b) not more than one-quarter of a grain of morphine or of any of its salts, (c) not more than one grain of codeine or of any of its salts, (d) not more than one-eighth of a grain of heroin or of any of its salts, (e) not more than one-half of a grain of Extract of cannabis, nor more than one-half of a grain of any more potent derivative or preparation of cannabis, (f) and not more than one of the drugs named above in clauses (a), (b), (c), (d), and (e). (2) Prescribing, administering, dispensing, or selling at retail of liniments, ointments, and other preparations, that are susceptible of external use only and that contain narcotic drugs in such combinations as prevent their being readily extracted from such liniments, ointments, or preparations, except that this Act shall apply to all liniments, ointments, and other preparations, that contain coca leaves in any quantity or combination. (3) The exemptions authorized by this section shall be subject to the following conditions: (a) No person shall prescribe, administer, dispense, or sell under the exemptions of this section, to any one person, or for the use of any one person or animal, any preparation or preparations included within this section, when he knows, or can by reasonable diligence ascertain, that such prescribing, administering, dispensing, or selling will provide the person to whom or for whose use, or the owner of the animal for the use of which, such preparation is prescribed, administered, dispensed, or sold, within forty-eight (48) consecutive hours, with more than four grains of opium or more than one-half grain of morphine or of any of its salts, or more than two grains of codeine or of any of its salts, or more than one-quarter of a grain of heroin or of any of its salts, or will provide such person or the owner of such animal, within 48 consecutive hours, with more than one preparation exempted by this section from the operation of this Act. Provided, however, that the foregoing limitations shall not apply to physicians acting in good faith in the course of their professional practice, in prescribing for patients afflicted with disease, whose suffering can only be alleviated by administration of

narcotic drugs in greater quantities than those specified in the foregoing. (b) The medicinal preparation, or the liniment, ointment, or other preparation susceptible of external use only, prescribed, administered, dispensed, or sold, shall contain, in addition to the narcotic drug in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone. (c) Such preparation shall be prescribed, administered, dispensed, and sold in good faith as a medicine, and not for the purpose of evading the provisions of this Act. (4) Nothing in this section shall be construed to limit the kind and quantity of any narcotic drug that may be prescribed, administered, dispensed, or sold, to any person or for the use of any person or animal, when it is prescribed, administered, dispensed, or sold, in compliance with the general provisions of this Act.

Section 9. (1) Every physician, dentist, veterinarian, or other person who is authorized to administer or professionally use narcotic drugs, shall keep a record of such drugs received by him, and a record of all such drugs administered, dispensed, or professionally used by him otherwise than by prescription. It shall, however, be a sufficient compliance with this subsection if any such person using small quantities of solutions or other preparations of such drugs for local applications, shall keep a record of the quantity, character, and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up, without keeping a record of the amount of such solution or other preparations applied by him to individual patients. Provided: That no record need be kept of narcotic drugs administered, dispensed, or professionally used in the treatment of any one patient, when the amount administered, dispensed, or professionally used for that purpose does not exceed in any forty-eight consecutive hours, (a) four grains of opium, or (b) one-half of a grain of morphine or of any of its salts, or (c) two grains of codeine or of any of its salts, or (d) one-fourth of a grain of heroin or of any of its salts, or (e) a quantity of any other narcotic drug or any combination of narcotic drugs that does not exceed in pharmacologic potency of any of the drugs named above in the quantity stated. (2) Manufacturers and wholesalers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection 5 of this section. (3) Apothecaries shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection 5 of this section. (4) Every person who purchases for resale, or who sells narcotic drug preparations exempted by section 8 of this Act, shall keep a record showing the quantities and kinds thereof received and sold, or disposed

of otherwise, in accordance with the provisions of subsection 5 of this section. (5) The form of records shall be prescribed by the State Board of Health. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received; the kind and quantity of narcotic drugs produced or removed from process of manufacture, and the date of such production or removal from process of manufacture; and the record shall in every case show the proportion of morphine, cocaine, or cogonine contained in or producible from crude opium or coca leaves, and the proportion of resin contained in or producible from the dried flowering or fruiting tops of the pistillate plant *Cannabis Sativa* L., from which the resin has not been extracted, received or produced; The record of all narcotic drugs sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering or dispensing, the name and address of the person to whom, or for whose use, or the owner and a species of animal for which, sold, administered, or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two years from the date of the transaction recorded. The keeping of a record required by or under the Federal Narcotic Laws, containing substantially the same information as is specified above, shall constitute a compliance with this Section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovering of such loss, destruction, or theft.

Section 10. (1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells and dispenses a narcotic drug in a package prepared by him he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. No person except an apothecary for the purpose of filling a prescription under this Act, shall alter, deface or remove any label so affixed. (2) Whenever an apothecary sells or dispenses any narcotic drug on a prescription issued by a physician, dentist, or veterinarian, he shall affix to the container in which such drug is sold or dispensed, a label showing his own name, address, and registry number, or the name, address, and registry number of the apothecary for whom he is lawfully acting; the name and address of the patient, or, if the patient is an animal, the name and address of the owner of the animal and the species of the animal; the name and address, and registry number of the physician, dentist, or veterinarian, by whom the prescription was written; and such directions as may be stated on the prescription. No person shall alter, deface, or remove any label so affixed, so long as any of the original contents remains.

Section 11. A person to whom or for whose use any narcotic drug has been prescribed, sold, or dispensed, by a physician, dentist, apothecary, or other person authorized under the provisions of Section 5 of this Act, and the owner of any animal for which any such drug has been prescribed, sold, or dispensed, by a veterinarian, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same.

Section 12. (1) The provisions of this Act restricting the possessing and having control of narcotic drugs shall not apply to common carriers or to warehouseman, while engaged in lawfully transporting or storing such drugs, or to any employee of the same acting within the scope of his employment; or to public officers or employees in the performance of their official duties requiring possession or control of narcotic drugs; or to temporary incidental possession by employees or agents of persons lawfully entitled to possession, or by persons whose possession is for the purpose of aiding public officers in performing their official duties.

Section 13. Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by narcotic drug addicts for the purpose of using narcotic drugs or which is used for the illegal keeping or selling of the same, shall be deemed a public nuisance. No person shall keep or maintain such public nuisance.

Section 14. All narcotic drugs the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited, and disposed of as follows: (a) Except as in this section otherwise provided, the court or magistrate having jurisdiction shall order such narcotic drugs forfeited and destroyed. A record of the place where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place, and manner of destruction, shall be kept, and a return under oath, reporting said destruction, shall be made to the court or magistrate and to the United States Commissioner of Narcotics, by the officer who destroys them. (b) Upon written application by the State Board of Health, the court or magistrate by whom the forfeiture of narcotic drugs has been decreed may order the delivery of any of them, except herein and its salts and derivatives, to said State Board of Health for distribution or destruction, as hereinafter provided. (c) Upon application by any hospital within the State, not operated for private gain, the State Board of Health may in his discretion deliver any narcotic drugs that have come into his custody by authority of this section to the applicant for medical use. The State Board of Health may from time to time deliver excess stocks of such narcotic drugs to the United States Commissioner of Narcotics, or

shall destroy the same. (d) The State Board of Health shall keep a full and complete record of all drugs received and of all drugs disposed of, showing the exact kinds, quantities, and forms of such drugs; the persons from whom received and to whom delivered; by whose authority received, delivered, and destroyed; and the dates of the receipt, disposal or destruction, which record shall be open to inspection by all Federal and State officers charged with the enforcement of Federal and State narcotic laws.

Section 15. On the conviction of any physician, dentist, veterinarian, manufacturer, wholesaler, or apothecary of a violation of any of the provisions of this act, in any court of competent jurisdiction, the clerk of said court shall send a certified copy of the indictment, affidavit, information, and of the rules, verdict and sentence to the Board or officer, by whom the convicted defendant has been licensed to practice his or her profession or to carry on his or her business, such Board or officer may in its or his discretion suspend or revoke the license or registration of the convicted defendant to practice his or her profession or to carry on his or her business. On the application of any such convicted defendant whose license or registration has been suspended or revoked, upon proper showing and for good cause said Board or officer may reinstate such license or registration. Any court of competent jurisdiction in which such a defendant is convicted of a violation of any of the provisions of this Act shall have the power in its discretion to suspend or revoke the license or registration of the convicted defendant, and may thereafter, upon proper showing and for good cause reinstate such license or registration; provided that no Board or officer shall reinstate any such license or registration where the same shall have been suspended or revoked by a court of competent jurisdiction; and provided further that no court shall reinstate any license of such a convicted defendant which has been revoked by the Board or officer by whom the convicted defendant was licensed to practice his or her professions or to carry on his or her business except upon a proceeding brought in a court of competent jurisdiction for the purpose of setting aside or restraining such suspension or revocation of license. Provided further that this section shall not apply wherever any Board is already, under existing statutes, vested with authority to suspend or revoke license because of violation of any Federal law regulating the use or disposition of narcotics.

Section 16. Prescriptions, orders, and records, required by this Act, and stocks of narcotic drugs, shall be open for inspection only to Federal, State, County and Municipal officers, whose duty it is to enforce the laws of this State or of the United States relating to narcotic drugs. No officer having knowledge by virtue of his office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution or proceeding

in court or before a licensing board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders, or records, relate, is a party.

Section 17 (a). Whenever an affidavit duly verified by a person claiming to have knowledge of the fact and setting forth that any person named or described therein habitually uses any narcotic drugs as defined in this act (so as to endanger the public morals, health, safety, or welfare) or who is or has been so far addicted to the use of such drugs as to have lost the power of self control with reference to his or her addiction, shall be filed with the State Attorney or any judicial circuit of any county in which such alleged habitual user of narcotic drugs is or may be found, such States Attorney shall issue a notice requiring the person so named or described to appear before a judge of any court of competent jurisdiction of violations of the provisions of this act, at a time and place specified in such notice, and shall cause a copy thereof to be served, by the sheriff or other officers duly qualified to serve process in civil or criminal cases, upon the person so named or described. Copy of such notice shall be transmitted by mail or otherwise to the State Board of Health. The affidavit and the original notice shall be filed with the clerk of the court before which the person so named or described is given a notice to appear at or before the time specified for such appearance, but the same and all other records and files of the proceedings shall be open for inspection only to the person named or described therein or his counsel or by public officers.

Section 17 (b) At the time and place specified in the notice, the person assumed or described in such notice, or his counsel, being present, the judge shall hear the evidence presented and shall appoint a commission of two physicians who shall examine such person and certify to the court as to whether such person is a habitual user of habit forming drugs as contemplated in Section (a). Upon being satisfied that all allegations contained in the affidavit are true, the Judge shall make and file an order requiring the person named or described to forthwith take and continue treatment for the cure of such drug addiction at a private institution under medical supervision to be selected by the person committed, and approved by the State Board of Health, if such person is able to pay therefor, otherwise at some hospital or institution under medical supervision owned by the United States and at the expense of the United States which maintains such institution. In the event the judge is not satisfied from the evidence adduced that the person is a habitual user of habit forming drugs as contemplated in subsection (a), he may order the committment of such person for observation for a period not exceeding thirty (30) days and upon expiration of that time shall consider the testimony of

the superintendent or physician in charge together with the evidence theretofore presented in rendering decision on the commitment of such person. The order of commitment shall require reports to be made to the court and to the State Board of Health at stated intervals therein specified by the physician or superintendent in charge, as to the effect and progress of the treatment. A copy of the order forthwith shall be served upon said person. The care and treatment of persons committed under this section shall be designed to rehabilitate them and restore them to mental and physical health; under regulations prescribed by the State Board of Health and/or the United States, the physician or superintendent in charge of the institution may parole inmates but such persons shall be finally discharged from further treatment and supervision only by the committing magistrate or his successor and only upon the recommendation of the superintendent or physician in charge of the institution to which committed. (c) Any trial court having jurisdiction of a defendant in a criminal action or proceeding, if it appears that the defendant habitually uses narcotic drugs as contemplated in subsection (a), may in its discretion likewise commit such person for treatment and rehabilitation to a public hospital or institution under medical supervision designated by the State Board of Health. In any such case the court may in its discretion stay further criminal proceedings or defer the imposition of sentence pending the discharge of the patient from treatment in accordance with the procedure outlined in subsection (b) of this Section. (d) Upon the recommendation of a duly licensed practicing physician or public health official that a person habitually uses narcotic drugs as contemplated in subsection (a), a judge or magistrate of a city, county, or state court, may commit to a public institution under medical supervision and duly approved by the State Board of Health a person making voluntary application for treatment for drug addiction. A person so committed shall not be detained under such voluntary agreement more than ten days from and inclusive of the date of notice in writing of his intention or desire to leave such hospital or institution. (e) Any person who shall fail, refuse, or neglect to comply with the terms and conditions of any order of a court duly issued and served in accordance with this section shall be deemed in contempt of court and shall be proceeded against accordingly.

Section 18. (1) No person shall obtain or attempt to obtain a narcotic drug, (a) by fraud, deceit, misrepresentation, or subterfuge; or (b) by the forgery or alteration of a prescription or of any written order; or (c) by the concealment of a material fact; or (d) by the use of a false name or the giving of a false address. (2) No person shall willfully make a false statement in any prescription, order, report, or record, required by this Act. (3) No person shall,



for the purpose of obtaining a narcotic drug, falsely assume the title of, or represent himself to be a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person. (4) No person shall make or utter any false or forged prescription or written order for any narcotic drug. (5) No person shall affix any false or forged label to a package or receptacle containing narcotic drugs. (6) The provisions of this section shall apply to all transactions relating to narcotic drugs under the provisions of Section 6 of this Act, in the same way as they apply to transactions under all other sections.

Section 19. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of this Act, it shall not be necessary to negative any exception, excuse, proviso, or exemption, contained in this Act, and the burden of proof of any such exception, excuse, proviso, or exemption, shall be upon the defendant.

Section 20. It is hereby made the duty of the State Board of Health, its agents, inspectors, officers and representatives, and all peace officers of the State, and all prosecuting attorneys, to enforce all provisions of this act, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, this State, and all other States relating to narcotic drugs.

Section 21. Any person violating any provision of this Act shall be deemed guilty of a felony and upon conviction be punished for the first offense, by a fine not exceeding Five Thousand Dollars (\$5,000.00) and by imprisonment in the penitentiary for not exceeding five years (5); and for any subsequent offense, by a fine not exceeding Ten Thousand Dollars (\$10,000.00), and by imprisonment in the penitentiary for not exceeding ten years (10).

Section 22. A judgment of conviction or acquittal on the merits under the laws of the United States for any alleged violation of the narcotic laws thereof shall be a bar to any prosecution hereunder for the same act or acts.

Section 23. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Section 24. This act shall be so interpreted and construed as to effectuate its general purposes, to make uniform the laws of those States which enact it.

Section 25. All acts or parts of Acts which are inconsistent with the provisions of this Act are hereby repealed.

Section 26. This Act may be cited as the Uniform Narcotic Drug Act.

Section 27. This Act shall take effect sixty days after its approval by the Governor.

Approved September 13, 1935.

No. 499)

(S. 410—Walton

### AN ACT

To more effectively provide for the supervision, inspection and regulation by Alabama Public Service Commission, in the public interest, of transportation companies, and of their rates, fares and charges, service, facilities, practices, rules and regulations and to provide for the payment of supervision and inspection fees by such transportation companies.

*Be it enacted by the Legislature of Alabama:*

Section 1. Unless otherwise specified, the word "Commission" when used in this Act, shall mean the Alabama Public Service Commission; and the word "Commissioner" when used in this Act, shall mean a member of the Commission.

Section 2. Unless otherwise specified, the term "transportation company", when used in this Act, shall mean and include every "transportation company as now so defined under the laws of this State, which confer jurisdiction upon the Commission to regulate transportation companies.

Section 3. Each transportation company doing business in this state and subject to the control and jurisdiction of the Commission with respect to its rates and service regulations, shall pay annually to the Commission on or before February first of each year, a fee for the inspection and supervision of such business during the next preceding calendar year. Such inspection and supervision fees shall be paid by such transportation companies in addition to any and all property, franchise, license, intangible and other taxes, fees and charges now or hereafter provided by law. No similar inspection and supervision fees shall be levied or assessed by any county or municipality of the State and no part of such inspection and supervision fees shall be allowed to any county or municipality of this State. Such inspection and supervision fees shall be measured by the amount of gross receipts of each such transportation company for the calendar year next preceding the date herein fixed for the payment of the same, except that in case of such transportation companies engaged in interstate business, the fees shall be measured by the gross receipts of such transportation companies from intrastate business only, for such preceding calendar year, and not in any respect upon receipts derived wholly or in part from interstate business. Such fees shall be ascertained as follows: A fee of two

dollars and fifty cents per one thousand dollars for the first one hundred thousand dollars or less of such gross receipts. A fee of two dollars per one thousand dollars for each additional one thousand dollars of such gross receipts up to and including one million dollars thereof. A fee of one dollar and fifty cents per one thousand dollars for each additional one thousand dollars of such gross receipts over one million dollars thereof. But in no case shall said fee be less than five dollars, which shall be the minimum inspection and supervision fee to be paid by any transportation company, and this amount shall in any event be paid over on or before February first of each year except that the maximum amount so to be paid for any one year by any such transportation company operating any railroad, or part of a railroad in this State, shall be five thousand dollars. The Commission shall keep a true record of all such amounts so paid to it, but said amount when received by the Commission, shall be promptly paid over to the State Treasurer, and shall be held in a separate fund by, and shall be paid out by the State Treasurer in payment of expenses incurred by the Commission in the regulation of the transportation companies, upon warrants drawn as provided by law upon the State Treasurer and approved as required by law. Said fees shall be in lieu of the inspection and supervision fees now provided for under sections 9732, 9733 and 9735 of the Code of Alabama of 1923. Payment of the supervision and inspection fees provided for hereunder shall in all respects be governed by the provisions of section 9736 and 9737 of said Code.

Section 4. If any clause, sentence, paragraph or part of this Act should, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of the Act.

Section 5. All laws, or parts of laws, in conflict herewith, are hereby repealed.

Section 6. This act shall take effect upon its approval by the Governor.

Approved September 13, 1935

No. 500)

(S.-422.—Walton

#### AN ACT

To Amend Section 1 of an Act entitled, "An Act to amend Sections 989, 992, 995, 1005, and 1007 of the Code of Alabama of 1923", approved February 5, 1935.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 1 of an Act entitled, "An Act to amend Sections 989, 992, 995, 1005, and 1007 of the Code of Alabama of 1923," approved February 5, 1935, be amended so as to read as

follows: "Section 1. That Sections 989, 992, 995, 1005, and 1007 of the Code of Alabama of 1923 be amended to read as follows: 989 Duties of Commission. The Commission shall inquire into and make an annual report upon the forest conditions in Alabama with reference to the development, protection and use of forests; the effects of the deterioration or destruction of forests upon the general welfare of the State; the economic, social and cultural benefits to be derived from the existence and operation of forests, and the proper use of lands not more valuable for purposes other than timber growth, including recommendations to the public generally as to reforestation, the protection of forests against harmful agencies, approved methods of extraction and utilization of forest products, the general management of forests and woodlands and the use of forests and trees for public and private purposes. This report shall be made to the Governor, and shall be given such distribution as the Commission, in its discretion, may deem feasible. The Commission shall report to each regular session of the Legislature the results of its investigations, and shall recommend necessary legislation, if any, with reference to forestry and other interests developing upon it by law. It shall give such advice, assistance and cooperation as may be practicable to private owners, and promote, so far as it may be able, a proper appreciation in this State, among all classes of the population, of the benefits to be derived from forest culture, preservation and use. The Commission may take such measures as may be reasonable and practicable to prevent and suppress forest fires and other influences harmful to forest growth, and may apply such parts of the State Forestry Fund as may be necessary to such purposes and to providing such systems of control as it may establish, either independently or in cooperation with the Federal Government and other agencies, public or private. The Commission shall be the sole State coordinating agency in joint work in the promotion and development of forestry, among all classes of land ownerships in the State, in which both the State and the Federal Government may have financial participation, and shall perform such other duties as may be imposed upon it by law. The Commission, for the purpose of establishing, developing and maintaining State Forests and State Parks may acquire land by donation, purchase or condemnation and for these purposes may use such funds as may be available to it and not otherwise obligated, and shall have sole charge of all State Forests and State Parks, and shall have authority to make such rules and regulations for the administration, occupancy and use of said State Forests and State Parks as it shall find necessary. The Commission is authorized to make such rules and regulations for the development, maintenance, management and operation of forest or park enterprises entered upon by the State, counties, and municipalities with view to secur-

ing loans or other financial cooperation from any agencies of the Federal Government as will enable such State, Counties and municipalities to obtain such loans or other financial cooperation, and is further authorized to act in all particulars in behalf of the State in securing for the State, or any of its Departments, institutions or agencies, such loans or other financial cooperation. The Commission may employ such clerical and other assistants as may be necessary, and fix their compensation. Where any of the lands of the State, or of any department, institution or agency of the State, are in scattered or noncontiguous tracts, the State Commission of Forestry is authorized, subject to the approval of the Governor or of the executive officer of the department, institution or agency to which such lands pertain or which is vested with the management and administration of said lands, to exchange such tracts for others of equal value, privately or publicly owned, to the end that the lands of the State or of any of its departments, institutions or agencies may be better consolidated for economy and efficiency in administration, protection and use, and to do such other things as may be necessary to give full effect to this section and this article.

992. **Deferred Taxation on Auxiliary State Forest Timber.** It is the declared policy of the State to encourage reforestation of cut-over lands, and timber culture generally, and, to that end, and in consideration of the public benefits arising therefrom, the timber growing on lands which shall hereafter be designated by the State Commission of Forestry as Auxiliary State Forests, under the provisions of this article, shall not be taxable or assessed for taxation by any authority from the time that said lands are so designated until they are withdrawn as Auxiliary State Forests, and only the land on which said timber grows may be taxed or assessed for taxation, as if the ownership of the timber growing thereon had been severed from the ownership of the land, provided that said land shall be appraised jointly by the State Tax Commission and the State Commission of Forestry, with view to its use for timber production purposes, such appraisal being made with due regard to the fact that the timber yields from such lands require a considerable period of years for maturing, and that the valuation determined by such appraisal for the purposes of taxation of the land independently of the timber shall not be increased during the continuance of such lands as Auxiliary State Forests; and provided further that when the land embraced within an Auxiliary State Forest does not exceed one hundred sixty acres the land shall not be taxed or assessed for taxation.

993. **CONTRACT FOR DEFERRED TAXATION ON TIMBER: WHAT IT SHALL CONTAIN.** The Governor may, at his discretion, upon designation of any lands as Auxiliary State Forests, under the provisions of this chapter, on behalf of and in the name of the State of Alabama, enter into a con-

tract, by and with the owner of said land, and the successors and assigns of said owner, the said covenant to run with the land that, in consideration of the devotion of said land to reforestation and of the public benefits arising therefrom, the timber growing on said land shall not be taxable, nor assessed for taxation, directly or indirectly, or by any authority, until said lands are withdrawn as Auxiliary State Forests, and that only the land upon which said timber is grown may be taxed or assessed for taxation, during said period, and that if said land is taxed or assessed for taxation, it shall be assessed and valued as if the ownership of the timber had been severed from the ownership of the land; provided that said land shall be appraised jointly by the State Tax Commission and the State Commission of Forestry, such appraisal being made with due regard to the fact that the timber yields from such lands require a considerable period of years for maturing, and that the valuation determined by such appraisal for the purposes of taxation of the land independently of the timber shall be the valuation of such lands upon and from the effective date of the approval of the contract and shall not be increased during the continuance of such lands as Auxiliary State Forests, and that if the land included under the contract does not exceed one hundred sixty acres the land shall not be taxed or assessed for taxation. It shall be agreed in said contract that the owner of said land will devote the same to forest culture and that no use shall be made of said land that will militate against the growth of the timber thereon; that the owner will use diligence in protecting the same against fire in accordance with rules established by the said Commission of Forestry and that the owner will not withdraw said lands as Auxiliary State Forests for a period of five years after the same are entered as such, and will not cut, turpentine, or otherwise utilize the timber thereon before the withdrawal of the same as Auxiliary State Forests, except in accordance with rules formulated by the said State Commission of Forestry, which rules and other rules mentioned herein; it is authorized and directed to make. Upon application of any owner of land comprised within Auxiliary State Forests heretofore established under contract of current effect, provisions authorized herein but not included in the original contract may, with the approval of the Governor, be included in a supplemental contract modifying the terms of the original contract. 995. TAX PAID ON WITHDRAWAL: AMOUNT OF. Upon the withdrawal of said lands, or any part of the same, as Auxiliary State Forests, the value of the timber thereon shall be appraised jointly by the State Tax Commission and the State Commission of Forestry as of the date of the withdrawal of said lands as Auxiliary State Forests and the owner of the same shall then pay, as a privilege tax for the entry and withdrawal of said lands as Auxiliary State Forests, and

in lieu of the annual ad valorem tax not assessed against said timber while entered as Auxiliary State Forests, a sum equal to eight percent of the value of the timber thereon at the time of its withdrawal, as appraised as here in provided. 1005. STATE FORESTRY FUND: WHAT CONSTITUTES. All occupation licenses or privilege taxes imposed by the State for engaging in any business dealing with timber or timber products and all fines and forfeitures arising under the provisions of this Article shall be paid into said Forestry Fund. All moneys going into said Fund are appropriated to said State Commission of Forestry for the purpose of administering this Article. 1007. FOREST WARDENS: DUTIES OF. All Sheriffs, deputy sheriffs, constables, marshals and such other persons as may be designated or appointed by the Governor or by the Commission of Forestry are hereby declared to be Forest Wardens and they shall report to the said State Commission of Forestry and to the State Forester, and to the Solicitor of the county or circuit in which the same occur, any violations of any provisions of this chapter.

Approved September 13, 1935.

No. 501)

(S. 427—Tucker.

### AN ACT

To continue the investigation of water resources of the State and to authorize the State Geologist to enter into contracts with the United States Government, or departments thereof, for cooperative action in collecting and publishing information and to make an appropriation therefor.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the State Geologist be and he is hereby authorized to collect, classify and file information and data relative to the Water Resources of the State and to enter into contracts and agreements with the United States Government, or any department thereof, for cooperative action in collecting and publishing such information and data.

Section 2. To carry out the provisions of this act there is hereby appropriated the sum of \$7500.00 annually, until otherwise directed by the Legislature, out of any money in the Treasury not otherwise appropriated and the Comptroller of the State is hereby authorized and directed to draw his warrant on the State Treasury for said sum upon the order of the State Geologist, approved by the Governor, at such time and in such amount as may be needed.

Section 3. All laws and parts of laws in conflict with the provisions of this Act be and the same are hereby expressly repealed.

Approved September 13, 1935.

No. 503)

(H. 889—McDermott

## AN ACT

To amend Section 28 of an Act, Entitled "An Act To Create a Pilotage Commission; to be Known as The State Pilotage Commission; To define Its Jurisdiction, Powers, And Duties; to Regulate Pilots and Pilotage and To Fix Fees Therefor; To Prescribe The Mode, Penalties, and Procedure For Violation Of This Act and To Repeal All Laws In Conflict Therewith, "Approved March 4, 1931.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 28 of an Act entitled "An Act to create a pilotage commission to be known as the State Pilotage Commission; to define its jurisdiction, powers, and duties; to regulate pilots and pilotage and to fix fees therefor; to prescribed the mode, penalties, and procedure for violation of this act and to repeal all laws in conflict therewith, "approved March 4, 1931, be and the same is hereby amended so as to read as follows: "Section 28. Any person piloting or conducting a foreign vessel, or an American vessel under register, or any other vessel subject to the payment of pilotage fees under the provisions of this act in or out of the Bay of Mobile or over the outer bar thereof, as a pilot, without a State license or after having forfeited his license or been deprived thereof is guilty of a misdemeanor and is entitled to no fee or reward for such service and upon conviction thereof shall be fined not less than \$50.00 nor more than \$500.00 for each offense and shall be sentenced to hard labor for the county for a period of not less than thirty days nor more than sixty days."

Section 2. That this act shall become effective upon approval by the Governor.

Approved September 13, 1935.

No. 505)

(S. 153—Rogers of Mobile

## AN ACT

To amend An Act entitled An Act, approved April 17th, 1933, and found on pages 139, 140, and 141 of the General Acts of Alabama, Special Session of 1933, "To amend Section 7 of an Act to provide and create a commission form of government and to authorize the adoption of the same in all cities and towns in the State of Alabama which now are now, or hereafter may not be, within the influence or operation of any other valid legislative enactment authorizing or adopting such form of government to regulate the selection, and election of commissioners and their terms of office and retention in and recall from office; to provide for the selection of one commissioner as mayor, and the retention in office of certain officials, to fix the powers, duties and compensation of such commissioners; to punish improper conduct in connection with elections and petitions hereunder; to abolish boards of public works, police commissioners, councilmen, aldermen, and certain other city and town offi-



cials of such municipalities as adopt the said form of government; and generally to authorize and provide for the creation and maintenance of said commission form of government," approved April 8, 1911.

*Be it enacted by the Legislature of Alabama:*

Section 1. That An Act Entitled An Act, approved April 17th, 1933, and found on pages 139, 140, 141 of the General Acts of Alabama, Special Session of 1933 to amend Section 7 of An Act "To provide and create a commission form of government and to authorize the adoption of the same in all cities and towns in the State of Alabama which now are not, or hereafter may not be, within the influence or operation of any other valid legislative enactment authorizing or adopting such form of government; to regulate the selection, and election of commissioners and their terms of office and retention in and recall from office; to provide for the selection of one commissioner as mayor, and the retention in office of certain officials; to fix the powers, duties and compensation of such commissioners; to punish improper conduct in connection with elections and petitions hereunder; to abolish boards of public works, police commissioners, councilmen, aldermen, and certain other city and town officials of such municipalities as adopt the said form of government; and generally to authorize and provide for the creation and maintenance of said commission form of government" approved April 8th, 1911, be amended so as to read as follows: Section 7. That every city adopting the form of government provided for by this Act shall be governed and managed by the board of commissioners provided for herein. Each and every officer and employee of said city other than the commissioners and the city recorder shall be selected and employed by the said board, or under its direction, and all salaries and wages paid by said city, except as otherwise provided by the terms of this Act shall be fixed by said board. The commissioners shall prescribe, and may at any time change, the powers, duties and titles of all subordinate officers and employees of said city except the city recorder, and all except the city recorder shall hold office and be removable at the pleasure of the board of commissioners. The city recorder shall be elected at an election held on the First Monday in September, 1939, and on the same date each four years thereafter, and shall hold office for a term of four years beginning on the 1st day of October, 1939, and until his successor shall be elected and qualified, such election to be held in the same manner as elections are held for the purpose of electing members of the board of commissioners as provided by law. The city recorder shall be a person learned in the law, provided, however, such recorder shall not be prohibited from practicing his or her profession when not in conflict with the duties of recorder. The recorder

elected hereunder shall have the powers and duties now or hereafter provided by law. The salary of the recorder shall be One Thousand Nine Hundred and Twenty Dollars (\$1,920.00) per year payable out of the City treasury as other salaries are paid. In case of vacancy in the office of recorder by death or otherwise such vacancy shall be filled by appointment by the board of commissioners, and such appointee shall hold office for the remainder of the term and until his successor shall be elected and qualified. Provided, however, that all salaried officials, except members of the boards and commissioners above mentioned, and the recorder who are holding office at the time of the adoption of such form of government under an election, appointment, or other selections for a definite term, shall be permitted to serve out such term in the position and with the duties and compensation, and subject to the conditions, restrictions and regulations, which would have existed had there been no change in the government of such city. The executive and administrative powers and duties in such cities shall be distributed into and among such departments, as may be determined by a majority of said commissioners, and the powers and duties pertaining to each department shall be fixed by the said board of commissioners and altered from time to time as they may deem best, and one of the members of said board shall be assigned to take charge of each such department, and as head of such department, shall exercise the duties and powers so provided by said board and said assignments may be changed at any time by a majority of said board.

Section 2. All laws or parts of laws in conflict herewith are hereby expressly repealed.

Approved September 13, 1935.

No. 506)

(S. 181—Walton.

### AN ACT

For the protection of human beings against rabies, to require inoculation against rabies of all dogs running at large, to provide for the apprehension and disposition of dogs running at large which have not been inoculated in accordance with the provisions of this Act, to provide for the confinement of bitten dogs, and dogs that have bitten human beings, to provide a means of enforcement of the provisions of this act, the appointment of a Rabies Inspector, to fix fees for inoculation of dogs, and to fix penalties for the violation of the provisions hereof.

*Be it enacted by the Legislature of Alabama:*

Section 1. TERMS DEFINED. Whenever used in this act, unless a contrary intention is clearly evident, the following terms shall be interpreted as herein defined:—(a) The term "dog" shall mean and include all members of the canine family, three months

or more of age, and also pet foxes, wolves, etc. (b) The term "person" shall mean and include individuals, firms, partnerships and associations; the singular shall include the plural, and the masculine the feminine and neuter. (c) The term "owner" shall mean and include any person having a right of property in the dog, or who keeps or harbors a dog, or who has it in its care, or acts as its custodian, or who permits a dog to remain on or about any premises occupied by him. (d) The term "inoculation against rabies" shall mean the sub-cutaneous injection of an amount of tested and certified canine anti-rabies vaccine, prescribed by the State Health Officer.

Section 2. INOCULATION OF DOGS REQUIRED. Within six months after the effective date of this act, and on or before the fifteenth day of March in any succeeding year, every owner of a dog, kept at any place within the limits of the State of Alabama, shall cause such dog to be inoculated against rabies by a competent veterinarian, or other person duly qualified. Evidence of such inoculation shall consist of a printed form, furnished by the State Board of Health, upon which shall be inscribed a description of the dog inoculated, its age, color, sex, and breed, the name and address of the owner and the lot or ampule number of the vaccine used and the name of the manufacturer, which certificate shall be dated and signed by the inoculating veterinarian or other person by whom the anti-rabies vaccine may be administered; provided, however, that the provisions of this section shall not be applicable in the case of any dog inoculated not more than six months prior to the passage of this act, the proper certificate of which inoculation shall be presented to the Rabies Inspector hereinafter named.

Section 3. DOGS TO WEAR TAGS. Coincident with the issuance of the certificate of inoculation, as prescribed in the preceding section, the veterinarian or other person furnishing the certificate shall also furnish a serially numbered tag bearing the same number and year as the certificate bears, which tag shall at all times be attached to a collar or harness worn by the dog for which the tag and certificate have been issued.

Section 4. ENFORCEMENT PROVISION. For the purpose of providing proper enforcement of the provisions of this act, the County Board of Health is hereby invested with general supervisory powers, and it shall be its duty to designate or appoint a competent veterinarian or other person properly qualified who shall be known as the Rabies Inspector, and such Inspector may select as many deputies to aid him in such enforcement as he may desire. It shall be the duty of the said Inspector, under the direction of the County Board of Health, to enforce the provisions of this act, and it shall be his duty to inoculate dogs or have the work done by his deputies when called upon to do so, and for the full

enforcement of the provisions of this act, the said Rabies Inspector, and his deputies are hereby clothed with full police power, and the sheriff and his deputies in each county and the police officers in each incorporated city are hereby designated as aids, and instructed to cooperate with said Inspector in carrying out the provisions of this act. The compensation of the Inspector and his deputies shall be limited to the fees prescribed in succeeding sections of this act.

Section 5. FEES. It is hereby provided that any veterinarian, Rabies Inspector, or other person authorized or qualified to inoculate dogs against rabies may charge for such services a sum not to exceed twenty-five cents, including the cost of the vaccine, which said fee shall accrue to said Inspector and shall be a part of the compensation received by such Inspector for his services. He shall keep a record of all dogs inoculated, the said record to carry the same information as is furnished on the certificate of inoculation, and shall report to the County Health Officer, as the executive officer of the County Board of Health, furnishing the said Health Officer a copy of such records of dogs inoculated.

Section 6. PENALTIES. On and after this act becomes effective, any dog found running at large, and not wearing evidence of inoculation as provided herein and which is apprehended by any officer or other persons charged with the enforcement of this Act, shall forthwith be subject to a penalty of .65c to be imposed by the Rabies Inspector on the owner of the said dog, in addition to the fee heretofore prescribed for inoculation. The said penalty, when collected, shall accrue to the Rabies Inspector as a part of his compensation for his services.

Section 7. LOST TAGS. In the case of the loss of the tag from any dog to which the same has been legally issued, every replacement thereof shall be upon such terms as may be agreed upon with the Rabies Inspector.

Section 8. IMPOUNDING OF UNLICENSED DOGS. It shall be the duty of the Rabies Inspector designated for each and every county in the State to provide either at his own expense or at the expense of the city or county in which he resides a suitable enclosure for the impounding of all dogs found running at large in violation of the provisions of this act. Where dogs are impounded, the said Inspector shall in some form or manner give a notice of not less than ten days, and if the owner thereof is known, such owner shall be given direct notice of the impounding of dog or dogs belonging to him.

Section 9. DISPOSITION OF DOGS PRESCRIBED. All dogs which have been impounded for failure to be inoculated in accordance with the provisions of this act, due notice of which impounding shall have been given as provided herein, shall be humanely dispatched and disposed of when not redeemed by the

owner within two (2) weeks. Where there exists a humane society in any city of the state where the provisions of this act are applicable, said humane society shall have the privilege of dispatching all unredeemed dogs should they so elect. In case the owner of any impounded dog desires to make redemption thereof, he may do so upon the following conditions: he must pay for the inoculation of the dog, for the board of the dog for the period for which it was impounded, and \$1.00 in addition as a penalty, as prescribed in Section 6. The said Rabies Inspector may, at his discretion, sell any dog not redeemed or claimed or otherwise disposed of to any purchaser desiring the said dog, which said purchaser must comply with all the provisions of this act.

Section 10. **CONFINEMENT OF BITTEN OR SUSPECTED RABID DOGS PRESCRIBED.** The owner of any dog which has been bitten by another animal, or which exhibits symptoms of rabies, shall immediately notify the County Health Officer, or County Quarantine Officer and shall promptly confine such dog, or have it confined, under suitable observation, for a period of at least thirty days, unless officially authorized by the County Health Officer, or County Quarantine Officer, in writing, to release it sooner.

Section 11. **CONFINEMENT OF DOGS WHICH HAVE BITTEN HUMANS AUTHORIZED.** Whenever the County Health Officer, the County Quarantine Officer, or any officer charged with the duty of enforcing this law shall receive information that any person has been bitten by a dog suspected of being rabid, the said County Health Officer, Quarantine Officer, or Rabies Inspector shall be required to have the said dog confined as provided in Section 10. And it shall be unlawful for any person having knowledge that any person has been bitten by a dog suspected of being rabid to refuse to promptly notify one or more of the officers mentioned in this section. It shall be unlawful for the owner of such dog to refuse or fail to comply with the written recommendations made by the County Health Officer, or County Quarantine Officer, in any particular case, and any expense incurred in the handling of any dog, under this and the preceding section, shall be borne by the owner.

Section 12. **GENERAL PROVISIONS.** No incorporated city in the state, or any county thereof, is permitted under the provisions of this act to impose any additional license or fee on any dog owned or kept in the State of Alabama; provided, however, that nothing herein contained shall prevent any incorporated city from providing for effective means of enforcement or additional penalties for violation of the law within their respective jurisdictions.

Section 13. It is herein further provided that any person violating, or aiding in or abetting the violation of any provision of this act, or counterfeiting or forging any certificate, permit, or tag, or making any misrepresentation in regard to any matter prescribed by this act, or resisting, obstructing, or impeding any authorized officer in enforcing this act, or failing to produce, for the purpose of inoculation, any dog confined in or about his premises shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than one nor more than ten dollars, and, for the purpose of enforcing this section, any court of competent jurisdiction, including Justice of the Peace Courts, shall have jurisdiction in such offenses.

Section 14. If any section, clause, paragraph, or provision of this act shall be held unconstitutional, such holding shall not affect any part or all the remainder of said act which is not in itself unconstitutional.

Section 15. Nothing in this act shall be held to limit in any manner the power of any municipality to prohibit dogs from running at large whether or not they have been inoculated as herein provided, nor shall anything in this act be construed to in any manner limit the power of any municipality to control and regulate dogs in such municipality.

Section 16. The County Health Officer or County Quarantine Officer or the Rabies Inspector or deputy officers or any one enforcing the provisions of this act shall not be held responsible for any accident or disease that may happen to any dog.

Section 17. The County Health Officer or County Quarantine Officer charged with the enforcement of this law is hereby required to make annual report to the State Health Department showing the number of dogs inoculated, fees and penalties collected, and the number of cases of rabies occurring in the respective county.

Section 18. All laws and parts of laws in conflict or inconsistent with the provisions of this act are hereby expressly repealed.

Section 19. This act shall go into effect immediately upon its passage and approved by the Governor of Alabama.

Approved September 13. 1935.

No. 507)

(S. 424—Chestnut

## AN ACT

To amend Sections 94, 108—113, Inclusive, 133, 182, 277, 281, 290, and 472 of The Alabama School Code of 1927.

*Be it enacted by the Legislature of Alabama:*

Section 1. That section 94 of the Alabama School Code of 1927 be so amended as to read as follows: 94. CUSTODIAN OF COUNTY SCHOOL FUNDS.—The county board of education shall appoint a custodian of the public school funds of the county, which custodian may be the county treasurer, the secretary to the county superintendent of education, or some other qualified person. The custodian of school funds shall give bond in a surety company authorized to do business in Alabama; shall receive and take charge of all moneys to which the county board of education may be entitled by law or which may come into its possession for public school purposes; shall pay out such moneys only on the written order of the county superintendent of education, approved by the chairman of the county board of education; shall keep an accurate record of all receipts and expenditures; and shall make such reports as may be required by law, by the county board of education, or by rules and regulations of the State Board of Education. The amount of the bond of the custodian shall be fixed by the county board of education and approved by the State Board of Education through its executive officer, the State Superintendent of Education, with whom a certified copy shall be filed.

Section 2. That sections 108-113, inclusive, of the Alabama School Code of 1927 be combined under one section, as section 108, and so amended as to read as follows: 108. CONSOLIDATION OF SCHOOL SYSTEMS UNDER COUNTY BOARD OF EDUCATION.—Whenever a county board of education and the city board or boards of education in the county shall deem it advisable to consolidate the administration of their respective systems under the county board of education and shall reach an agreement to that effect through resolutions adopted by and recorded in the minutes of each board, which agreement shall provide for the payment of their respective indebtedness, said consolidation shall be made to become effective at the time designated in the resolutions providing for such consolidation; provided, that, if within thirty days after the adoption of said resolutions, twenty-five per cent of the qualified electors of the territory covered by either of the school systems concerned shall submit a protest in writing, the consolidation procedure shall be as follows. 1. REQUEST FOR REFERENDUM.—The boards concerned shall adopt resolutions asking for a referendum on the proposed consolidation; whereupon

the chairman of each board shall certify to the Judge of Probate a copy of the agreement and of the resolution adopted by his board.

2. ORDER OF ELECTION.—Upon receipt by the Judge of Probate of certified copies of the agreement and resolutions, adopted as provided herein, he shall forthwith present them to the court of county commissioners or other governing body, which shall order elections to be held simultaneously in the territories concerned and at the time requested by said boards, to determine whether or not the school system of the county and the school system or systems of the city or cities shall be administered by the county board of education.

3. NOTICE OF ELECTION.—At least thirty days before the elections are held, the Sheriff shall give notice of the time and the purpose of the elections by publication in some newspaper in the county, if any is published therein, and, if not, by writing posted at the courthouse and at three other public places in each school system concerned.

4. APPOINTMENT, COMPENSATION, AND DUTIES OF ELECTION OFFICERS.

—The officers of the elections shall be appointed, the elections shall be held, and the results shall be declared as in regular elections for County or city officers; provided, that the elections may be held at the time of any regular election and, in that event, the officers of the general election shall serve without extra compensation. If the elections are held at a time other than that fixed for a regular election, the officers shall receive the same pay as for a general election.

5. BALLOTS FOR ELECTION.—The ballots shall have printed at the top a statement of the purpose of the elections and directly underneath, in plain type and on different lines, the words, "For Consolidation", "Against Consolidation". The voter favoring the proposed consolidation will make a cross mark directly to the left of the words "For Consolidation", and the voter not in favor of the proposed consolidation will make a cross mark directly to the left of the words "Against Consolidation".

6. WHO MAY VOTE: RESULT OF ELECTION.—All qualified electors

residing in the territories concerned shall have the right to vote and, if a majority of the qualified electors voting in the combined territories concerned shall vote in favor of the consolidation, the city board or boards of education shall stand abolished and thereafter the schools of the county and the schools of the city or cities involved shall be administered by the county board of education. The consolidation shall not operate to relieve any board of education, or other governing body of liability for obligations previously incurred, or to impair rights existing prior to the consolidation. On the contrary, the agreement as to indebtedness shall be binding on both the county board of education and the board or boards of education of the city or cities whose school systems are consolidated; provided that, in the event of a consolida-



tion, the county board of education shall have the right to compel the execution of contractual obligations made to either of the boards prior to consolidation.

Section 3. That section 133 of the Alabama School Code of 1927 be so amended as to read as follows: 133. SCHOOL TRUSTEES: QUALIFICATIONS AND SELECTION.—The county board of education shall appoint for every school in the county from six discreet, competent and reliable persons of mature years nominated by the patrons of the said school, three persons residing near the schoolhouse, and having the respect and confidence of the community, to serve as trustees of the school, to care for the property, to look after the general interests of the school, and to make to the county board of education, through the county superintendent of education, from time to time, report of the progress and needs of the school, and of the will of the people in regard to the school; provided, that the term "patrons" as used herein shall be construed to mean the parents and guardians of children in attendance at the school and, whether parents or guardians or not, qualified electors residing in the attendance district of the school.

Section 4. That section 182 of the Alabama School Code of 1927 be so amended as to read as follows: 182. INCIDENTAL FEES IN RURAL ELEMENTARY SCHOOLS.—No fees of any kind shall be collected from children attending any of the first six grades during the school term supported by public taxation.

Section 5. That section 218 of the Alabama School Code of 1927 be so amended as to read as follows: 218. INCIDENTAL FEES IN CITY ELEMENTARY SCHOOLS.—No fees of any kind shall be collected from children attending any of the first six grades of the city schools during the school term supported by public taxation.

Section 6. That section 277 of the Alabama School Code of 1927 be so amended as to read as follows: 277. EFFECT OF CONSOLIDATION.—There upon the said board of county commissioners or other governing body shall call an election in like manner as already prescribed for calling an election in a school district in the special districts or district and adjacent territory proposed to be consolidated, and if a majority of the qualified electors voting in the combined territories of the districts or district and adjacent territory proposed to be consolidated shall vote favorably, the districts or district and adjacent territory shall be consolidated into a new special school tax district, and the tax as voted shall be levied and collected in the new district as a unit, but the creation of a new district shall not operate to relieve the county board of education of liability for the just obligations made prior to such consolidation. In the event a majority of the quali-

fied electors voting in the combined territories of the districts or district and adjacent territory proposed to be consolidated shall vote against the proposed consolidation, said consolidation shall not be made and each district shall remain as before with the same taxing privileges.

Section 7. That section 281 of the Alabama School Code of 1927 be so amended as to read as follows: 281 WARRANTS SOLD AND TAXES PLEDGED FOR PAYMENT.—In any county which has levied or is levying a special county tax for school purposes, the county board of education, in order to erect, repair, enlarge, or equip school buildings, or to make other improvements in the school facilities of the county, or to raise money for any of such purposes, may issue and sell school warrants bearing interest at a rate not to exceed six per centum per annum for an amount, including interest, not exceeding the income from said tax levy, estimating such income upon the basis of the assessed value of the taxable property in such county for the preceding tax year, as the annual return for such levy for the period for which such warrants are issued. Any county board of education shall have authority to use the proceeds from the local taxes or to issue warrants pledging the proceeds from such taxes for the purpose of taking over school buildings or of liquidating indebtedness on school buildings already erected by a municipality, the schools of which are under the jurisdiction of said county board of education; provided, that the county board of education and the authorities of the municipality in which the school building is located shall reach an agreement respecting the value and the price to be paid for the building, which agreement shall be entered in the minutes of both authorities; provided, further, that the municipality shall execute a warranty deed conveying to the State of Alabama all right, title, and interest in and to said property. The board of education of any county or of any city having a city board of education, in order to erect, repair, enlarge, or equip school buildings or to make improvements in the school facilities of any school district under its control in which a district school tax has been or is being levied, or to raise money for any of such purposes, may issue school warrants bearing interest at a rate not to exceed six per centum per annum for an amount, including interest, not to exceed the income from such tax levy, estimating such income upon the basis of the assessed value of the taxable property in such city or school district for the preceding year, as the annual return from such levy for the period for which such warrants are issued.

Section 8. That section 290 of the Alabama School Code of 1927 be so amended as to read as follows: 290. MUNICIPALITY MAY REMAIN UNDER COUNTY BOARD OF EDUCATION: DISPOSITION OF SCHOOL TAX.—When a municipality under

the jurisdiction of a county board of education attains a population of twenty-five hundred or more, according to the last decennial or any subsequent Federal census, the schools of the municipality may remain under control of the county board by agreement between that board and the city council of the municipality, which agreement shall be expressed in resolutions adopted by and spread upon the minutes of the two authorities. If the municipality does not enter into such an agreement, the control of the school or schools of the territory within the municipality shall be vested in a city board of education, and thereafter the district school tax collected in the city shall be paid over to the custodian of city school funds, and the district school tax collected in the contiguous territory shall be paid over to the custodian of county school funds; provided, that so much of the proceeds of the special school tax collected in the original school tax district as may be required for the retirement of outstanding warrants issued against such tax, including the interest thereon, shall be paid over to the proper official or authority to be used for such purpose.

Section 9. That section 472 of the Alabama Schol Code of 1927 be so amended as to read as follows: 472. CONTROL OF AGRICULTURAL SCHOOLS: MAY BE TRANSFERRED TO LOCAL BOARDS.—The State Board of Education, upon recommendation of the State Superintendent of Education, shall have control of the State secondary agricultural schools; shall appoint and fix the compensation of the principals and all other employees, including a treasurer for each or for all of the schools; shall prescribe the courses of study, placing major emphasis on agricultural and home economics subjects; and shall adopt rules and regulations for the management of the schools; provided, that any or all of the schools may be administered directly by the State Board of Education, may be administered cooperatively by the State Board and the local boards of education within whose territorial jurisdiction the schools are located, or may be transferred to and be administered directly by such local boards, as may be determined by the State Board. The procedure for transferring a state secondary agricultural school to a local school system shall be as follows: 1. When the administration of a school located in a municipality whose public schools are administered by the county board of education is desired by the county board to be transferred to the county school system, a resolution requesting the State Board of Education to make such transfer may be adopted by the county board of education, in which event a certified copy of the resolution shall be filed with the State Board. 2. When the administration of a school located in a city whose public schools are administered by a city board of education is desired by the city board to be transferred to the city school system, a resolution requesting

the State Board of Education to make such transfer may be adopted by the city board of education, in which event a certified copy of the resolution shall be filed with the State Board. 3. If any such request for the transfer of a school be approved by the State Board of Education, written notice of such approval shall be transmitted to the board concerned by the State Superintendent of Education; whereupon the requested transfer shall become effective. 4. After any such transfer becomes effective, the transferred school shall be administered as a unit in the high school system of the county or of the city to which the school is transferred, and all funds accruing for the support of the school, including balances in the hands of the secretary-treasurer, shall be paid to the custodian of school funds of the county or of the city, as the case may be. 5. The title to the property of any school transferred under the provisions of this section shall remain in the State of Alabama.

Section 10. That the provisions of this act shall be effective upon its approval by the Governor.

Section 11. That all laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Approved September 13, 1935.

No. 508)

(S. 376—Wellborn.

### AN ACT

To permit the playing of tennis, golf, baseball and operating of moving picture shows on Sunday, whether admission is charged thereto or not, in cities of the State which now have or may hereafter have a population of not less than Fifteen Thousand inhabitants nor more than Forty Thousand Inhabitants, according to the last or any subsequent Federal Census and within the police jurisdiction thereof; to provide that the governing body of any such city may by ordinance prohibit any or all of the acts herein named and must upon the passage of such ordinance provide that permitting or prohibiting thereof be submitted at the next election to be held in such city, and to provide for holding of other and subsequent elections on such acts and for cost thereof.

*Be it enacted by the Legislature of Alabama:*

Section 1. It shall be lawful in cities whose population is not less than Fifteen Thousand inhabitants nor more than Forty Thousand inhabitants, according to the last or any subsequent Federal census and within the police jurisdiction thereof, to engage in the playing of tennis, golf, baseball and in operating moving picture shows on Sunday whether admission is charged or not.

Section 2. In any such city, the acts or any of them herein referred to may be prohibited by an ordinance passed by the governing body of such city. The governing body of such city must as a part of such ordinance provide that there shall be submitted

to the qualified electors of such city at the next election held for any purpose, primary, special or general on a special ballot, separate questions as to whether or not the Act or acts so prohibited shall be permitted or prohibited. If a majority of the qualified electors participating in such election shall vote in favor of permitting any one or all of the acts prohibited by such ordinance, such ordinance as to such act or acts shall thereafter be of no force or effect and such acts shall be lawful in such city and within the police jurisdiction thereof.

Section 3. After any election held under the provisions of Section 2 of this Act, the governing body of any such city may by ordinance provide at the next election held in such city for any purpose, or for a special election for the submission on a special ballot to the qualified electors of such city the question or questions as to whether any act or acts which a majority of the qualified electors of such city participating therein at any election had voted in favor of prohibiting, may by ordinance be declared to be lawful. If a majority of the qualified electors participating in such election shall vote in favor of permitting any of the acts, herein referred to, on Sunday the governing body of such city must so provide by ordinance.

Section 4. The cost of ballots, and all of special elections held hereunder must be paid by the city.

Approved September 13, 1935.

No. 509)

(S. 413—Locke.

### AN ACT

To impose all the duties of the State Securities Commission of Alabama under existing law and all the duties of the Superintendent of Banks of this State, as such State Securities Commission, upon the Attorney General of Alabama; and to invest in the Attorney General of Alabama all the authority, rights, privileges and immunities of said State Securities Commission, and of the Superintendent of Banks of this State, as such State Securities Commission; and to provide that on and after the effective date of this Act the State Securities Commission shall be composed of the Attorney General of Alabama; and to provide that the State Securities Commission shall have its office in the office of the Attorney General of this State.

*Be it enacted by the Legislature of Alabama:*

Section 1. That upon and after the effective date of this Act all the duties of the State Securities Commission and of the Superintendent of Banks of this State, as such State Securities Commission, under existing law, are imposed upon the Attorney General of Alabama.

Section 2. That upon and after the effective date of this Act, the Attorney General of this State is invested with all the authority, rights privileges and immunities of the State Securities Commission and of the Superintendent of Banks of this State, as such State Securities Commission. On and after the effective date of this Act, the Attorney General of this State, as such State Securities Commission, shall prosecute all causes before said Commission, pending and undetermined. There being no employees of the Securities Commission at this time, the Attorney General is vested with the authority to reorganize such department in such a manner as is now provided by law.

Section 3. On and after the effective date of this Act, the State Securities Commission shall have its office in the office of the Attorney General of this State.

Section 4. All laws, or parts of laws, in conflict herewith are hereby repealed.

Section 5. This Act shall be effective on and after the date of its approval by the Governor.

Approved September 13, 1935.

No. 510)

(H. 64—Street.

### AN ACT

To amend Sections 9, 14, and 15 of an Act approved July 10, 1931, entitled: "An Act to protect the public health and welfare, to provide for the construction, maintenance and operation of hospitals and sanatoria for the treatment of tuberculosis, and to make appropriations for the building and maintenance of same."

*Be it enacted by the Legislature of Alabama:*

Section 1. That Sections 9, 14, and 15 of an Act approved July 10, 1931, entitled: "An Act to protect the public health and welfare, to provide for the construction, maintenance and operation of hospitals and sanatoria for the treatment of tuberculosis, and to make appropriations for the building and maintenance of same," be amended to read respectively as follows: Section 9. Any sanatorium, or hospital now or hereafter established hereunder, desiring to share in the benefits of this Act, must make provisions for the care of Alabama citizens who are not residents of such county or counties and must place at the disposal of the State Committee of Public Health for the use of such Alabama citizens aforesaid fifteen per cent (15%) of the total bed capacity of such sanatorium or hospitals. It being the intent hereof that the county from which a patient, in indigent circumstances, comes, shall pay the difference remaining for the cost of such patient after the state subsidy has been deducted; should a patient from another county not be in indi-

gent circumstances, said difference in cost after deducting the state subsidy shall be fixed by the board of trustees of the sanatorium receiving such patient. On the first day of each month the board of trustees, or the superintendent of the sanatorium, whether organized and established under the provisions of this act or any other act or acts permitting counties to erect and maintain sanatoria for the treatment of tuberculosis, shall report to the State Committee of Public Health the number of patients treated during the preceding month, with such detailed information as said State Committee of Public Health may require. Such reports shall show specifically the number of patients treated with the number of days and the aggregate number of weeks of such treatment and the actual per diem cost per patient cared for in the institution and shall be verified by the superintendent or by the president of the board of trustees. If accepted and approved by the State Health Officer, it shall be the duty of the latter official to certify to the State Comptroller that the sanatorium in question has treated such number of patients for an aggregate specified number of days and at the cost per diem set forth in the report. Thereupon the State Comptroller, with the approval of the Governor, shall draw his warrant on the State Treasurer in favor of the county treasurer having the funds of the sanatorium in his custody, for such amount as will constitute compensation for such patients on the basis of one-half the cost per patient cared for, provided that in no instance shall the state's contribution exceed seventy-five cents per diem for each patient cared for; it being the intent hereof that the state shall contribute towards the cost of maintaining and treating patients a sum not to exceed seventy-five cents for each day of such care and treatment. In the event the amount appropriated from the State Treasury is insufficient to meet, in full, the financial obligations enumerated above on the state's part, the State Health Officer is authorized to prorate among the counties qualified to participate in the provisions of this bill, the amounts available so that each will receive its proportionate share. Nothing in this act shall be construed to mean that any sanatorium established hereunder may not charge a person, who is not in indigent circumstances, a reasonable sum per week for care and treatment in such institution, which sum shall be agreed upon by the board of trustees.

Section 14. Whenever the Board of Revenue, Court of County Commissioners, or other governing body, of any county shall contract with the management or owners of any hospital or sanatorium for the treatment of persons afflicted with tuberculosis and such hospital or sanatorium shall have been approved by the State Committee of Public Health, as provided in the preceding section, it shall be the duty of the county health officer, or other legally

designated authority on the first day of each month to report to the State Health Officer the number of patients treated at any such sanatorium or hospital with such detailed information as said health officer may require, such reports shall show specifically the number of patients treated, any compensation paid by the county therefor, the aggregate number of days of such treatment, and the actual per diem cost per patient cared for in the institution. Such reports shall be verified by the officer or officers making the same. Upon receipt and approval of such report by the State Health Officer, it shall be the duty of the latter official to certify to the State Comptroller that the county in question has caused to be treated, without compensation to it, patients for an aggregate specified number of days based upon said report which report shall have been approved by the Governor. Thereupon the State Comptroller shall draw his warrant on the State Treasury in favor of the county treasurer of such county for such amount as will constitute compensation for such patients on the basis set forth in Section 9 of this Act. Section 15. There is hereby appropriated from the State Treasury an amount sufficient to make the payments arising under the terms of this act, or as much thereof as may be necessary, in an amount not to exceed \$75,000 annually for the years 1936, 1937, 1938 and 1939. Provided, however, said appropriation shall only be available when in the opinion of the Governor the condition of the Treasury will permit, and shall be paid out only upon the approval of the Governor.

Approved September 14, 1935.

No. 511)

(H. 162—Quarles

### AN ACT

To amend Section 334, Schedule I, Subsection 31, of the Compiled Revenue Code of Alabama, and the Act approved July 22, 1927, entitled "In reference to and to further provide for the general revenue of the State of Alabama and published as Section 19, at page 160, of the Acts of 1927, as further amended by an act approved July 30, 1931, entitled "An Act to amend Section 19 of the Revenue Act of 1927," which said amendment appears at page 812 of the published General Acts of Alabama of 1931, by exempting from the privilege or license tax for the operation of automotive vehicles imposed by said revenue law all passenger vehicles owned and operated by the Federal Government or by officers and enlisted men actually serving in the United States Army who are assigned by the War Department as Instructors and/or Sergeant-Instructors with the National Guard of Alabama and all commissioned officers of the Active National Guard of Alabama.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 1 of an act entitled "An Act to amend Section 19 of an Act approved July 22, 1927, entitled 'In reference



to and to further provide for the general revenue of the State of Alabama', be amended by adding thereto the following: That there shall be exempted from the operation of the privilege or license tax and registration fee now or hereafter to be levied on automobiles and motor vehicles within the State of Alabama, passenger vehicles owned and operated by the Federal Government or by officers and enlisted men actually serving in the United States Army who are assigned by the War Department as Instructors and/or Sergeant-Instructors with the National Guard of Alabama and all commissioned officers of the Active National Guard of Alabama. Such vehicles shall be properly identified with tags or plates issued by the proper department of the Federal Government or by the commanding officers of the Army or National Guard having jurisdiction in the premises; and upon presentation of such proper identification to the county officials of the county in which said vehicle is ordinarily kept or stored said official of the State of Alabama shall issue a license tag to be attached to said vehicle, without, however, charging the usual fees for registration or licensing of said vehicles.

Section 2. All laws or parts of laws in conflict herewith are hereby repealed.

Section 3. This act shall take effect immediately upon approval by the Governor.

Approved September 14, 1935.

No. 512)

(H. 217—Rogers.

### AN ACT

To require each and every motor vehicle operated upon the city streets and public highways of Alabama to have and keep attached and plainly visible at all times on both ends of the motor vehicle a license tag as prescribed and furnished by the State Tax Commission and to prescribe the punishment for violations of this Act.

*Be it enacted by the Legislature of Alabama:*

Section 1. That each and every motor vehicle operator who or which after Nov. 15, 1936, operates a motor vehicle upon any city street or other public highway of or in this State shall at all times keep attached and plainly visible on both the front and rear end of such motor vehicle a license tag or license plate as prescribed and furnished by the State Tax Commission at the time the owner or operator purchases his license.

Section 2. Any one violating the provisions of Section 1 hereof shall be guilty of a misdemeanor and shall, upon conviction, be punished by fine not exceeding Five Hundred Dollars (\$500.00),

and in addition thereto shall be prohibited from driving a motor vehicle in Alabama for a period of not less than sixty days nor more than six months.

Section 3. The State Tax Commission shall provide license plates in duplicate for every owner or operator of a motor vehicle at the time he pays his license, provided that on one of the tags so furnished shall be marked or indented the word "front".

Section 3-1/2. Neither the State Tax Commission nor Judges of Probate shall make any additional charge nor demand any additional fee for the issuance of such front and rear license plate, over and above the present license fee authorized for the issuance of a single license; and only one record shall be made.

Section 4. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed.

Section 5. This Act shall become effective on Nov. 15th 1936.  
Approved September 14, 1935.

No. 513)

(H. 471—Shaver.

### AN ACT

To amend Section 1943 of The Code Of Alabama of 1923, relating to appeals by defendants in City cases.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 1943 of the Code of Alabama of 1923 be amended so as to read as follows: 1943: (1220) from the Judgment of said Circuit Court of other court of like jurisdiction, the City, in a case involving the validity of an ordinance, or the defendant in any case, may appeal to the Supreme Court of the State; and if the appeal is taken by the town or city, it shall give security for the costs of appeal. When taken by a defendant, he may give bail with sufficient sureties, conditioned that he will appear and abide the Judgment of the Appellate Court, and failing to give bail, he must be committed to the town or city jail; but may give such bail at any time pending the appeal. When the appeal is taken by the defendant and bail is given pending the appeal, and the judgment of conviction is affirmed or the appeal is dismissed, the defendant is bound by the undertaking of bail to surrender himself to the town marshal or chief of police of the city within fifteen days from the date of such affirmance or dismissal, and if he shall fail to do so, the clerk of the court from which the appeal is taken, upon motion of the city, must endorse the bail bond forfeited, and a writ of arrest must be issued by such clerk to the sheriff, and if not executed another must be issued, and so on until the defendant is arrested, and upon arrest he shall be delivered to the chief mar-

shall or chief of police and the sentence must, without delay, be carried out as if no appeal had been taken; and whenever an undertaking of bail is forfeited as herein provided, a conditional judgment must be rendered by the court in favor of the city and the same proceedings had thereon for the city as is authorized by law to be had in the name of the State for the use of the County in state cases.

Approved September 14, 1935.

No. 514)

(H. 501—Staples.

### AN ACT

To repeal an Act entitled, "An Act to Prohibit the State of Alabama, the State Docks Commission, or any other agency or commission of the State, from granting any exemption from any State, county or municipal taxation: and to modify or repeal any Act or Acts contrary to the Provisions hereof." (Approved August 4, 1931).

*Be it enacted by the Legislature of Alabama:*

Section 1. That the Act entitled, "An Act to Prohibit the State of Alabama, the State Docks Commission, or any other agency or commission of the State, from granting any exemption from any State, county or municipal taxation; and to modify or repeal any Acts or Acts contrary to the provisions hereof," (Approved August 4, 1931), be and the same is hereby repealed.

Section 2. That all laws and parts of laws in conflict with this Act be and the same are hereby expressly repealed.

Approved September 14, 1935.

No. 515)

(H. 532—Parish.

### AN ACT

To amend the Code of Laws for the State of Alabama, known as the "Agricultural Code of Alabama," of 1927, adopted as the Code of Laws for the State of Alabama, prepared in accordance with the provisions of the Act approved February 18, 1927, (H. 273 Goode) by the Act of the Legislature approved August 24, 1927, which pertains to Agriculture and Industries, the Department of Agriculture and Industries, the Commissioner of Agriculture and Industries and the State Board of Agriculture, and relating subjects, as follows: Amending Section 124 of Article Sixteen, pertaining to Commercial Feeds; amending Section 168 of Article Eighteen, pertaining to Insecticides and Fungicides; and, amending Section 217 of Article Twenty-three, pertaining to Suspension From Sale, Seizure by Writ of Attachment, And Authority To Collect And Analyze Samples; and, providing for the repeal of laws and parts of laws in conflict with this Act and the effective date of the same.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 124 of Article Sixteen of the "Agricultural Code of Alabama," of 1927, be and the same is hereby amended to read as follows: Section 124. COMMERCIAL FEEDS DEFINED.—The term "commercial feeds" shall be held to include all feed stuffs used for feeding domestic and wild animals and domestic and wild birds; except whole seed or grains, the unmixed meals made directly from entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kaffir and milo when packed for human consumption, whole hays, straws, cotton seed hulls and corn stover when unmixed with other materials.

Section 2. That Section 168 of Article Eighteen of the "Agricultural Code of Alabama", of 1927, be and the same is hereby amended to read as follows: Section 168. STATEMENT OF CHEMICAL ANALYSIS.—Any manufacturer of an insecticide or fungicide, before the same is offered for sale in Alabama, shall file or cause to be filed with the Commissioner, for each and every brand of insecticide or fungicide, a certified statement of the brand name and of the chemical analysis, showing the active and inert constituents as required by Section 166 of this Article, provided that whenever any inert constituent is claimed to exert especial attractions it shall be considered as active and its nature and percentage shall be filed with the Commissioner and shall be stated on the label of the product, in the form of an application for registration of the brand. Said application shall be accompanied by a copy of the label proposed for use in connection with the sale of said brand, and when said Commissioner shall so request, with a sealed package containing not less than one pound of the insecticide or fungicide. The manufacturer filing or causing to be filed such certificate, shall accompany the application with, and shall pay annually thereafter, to the Commissioner a fee of Ten (\$10.00) Dollars on each and every brand prepared and offered for sale in Alabama or for transportation into this State for sale or use therein, which fee shall accrue to the "Agricultural Fund" and provided said fee shall be Fifteen (\$15.00) Dollars in case said insecticide or fungicide is offered for sale in Alabama before such registration. Whenever any person shall have filed said certificate and paid said registration fee, no other person shall be required to file such statement or pay such fee. If after a brand of insecticide or fungicide has been registered, it is later discovered that the brand was registered in violation of the provisions of this Article, the Commissioner shall have authority to cancel the registration.

Section 3. That Section 217 of Article Twenty-three of the "Agricultural Code of Alabama", of 1927, be and the same is hereby amended so as to read as follows: Section 217. SUSPENSION OF SALE OF ARTICLE.—If at any time the Commissioner or

his duly authorized agent, shall have reason to believe that any product or products or article mentioned in the succeeding sections of this Article, which are held in possession, delivered, kept, offered or exposed for sale in this State, do not comply with the requirements of this Article or other Article of this Code as to ingredients, substance, analysis, marking or labelling, weight or measure of the same, it shall be his duty by written order to suspend the sale of the same until he shall have satisfied himself, or shall be satisfied by an analysis, or otherwise, that such product or article is made up, compounded or marked as required by law and rules and regulations under authority of law. If he shall find that the same does not comply with such laws and rules and regulations, either before or after the making of such suspension order, then he is authorized to proceed with regard to the same as provided in the succeeding Sections of this Article, or he may order in writing the same to be held at his disposition pending the placing of such product or article in such condition as will meet the requirements of such laws, rules and regulation, under the supervision and direction of the Commissioner or his duly authorized agent, or at the discretion of the Commissioner proceeding with regards to the same as provided in the succeeding Sections of this Article. Provided in case the owner of such product or article denies by written notice to the Commissioner or his agent that the same is not in compliance with the laws, rules or regulations and requests a hearing thereon, the Commissioner or his agent shall as soon as practicable thereafter proceed as provided in the succeeding Sections of this Article, in order that the court may hear and decide said issue and proceed as provided for in the succeeding Sections of this Article. Any person who moves, transports, sells or in any other manner disposes of any product or article after such product has been ordered suspended or held as hereinbefore provided shall be guilty of a misdemeanor and upon conviction thereof fined not more than Five Hundred (500.00) Dollars or imprisoned for not more than six months or both, provided that such product or article may be moved, transported or otherwise disposed of by and in compliance with written order by the Commissioner.

Section 4. CONSTRUCTION.—That if any provisions of this Act or the application thereof to any person or circumstance shall be held by any Court to be unconstitutional, such holding shall not affect any other provision of this Act, or the application of such provision to other persons or circumstances, it being the intent and purpose hereof that each provision hereof shall stand or fall on its own merits and that judicial annulment of any provision hereof shall have no effect upon any other provision not so annulled.

Section 5. REPEAL OF CONFLICTING LAWS.—That all laws and parts of laws, general, special or private, in conflict with the terms and provisions of this Act are hereby repealed.

Section 6. EFFECTIVE DATE.—This Act shall take effect and become operative immediately upon its passage and approval by the Governor.

Approved September 14, 1935.

No. 516)

(H. 613—Robertson (Cullman)

### AN ACT

To Amend Sections 1 and 3 of an Act Approved September 9, 1927 Amending Section 1754, 1757, 1760 and 1894 of the Code of Alabama of 1923.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 1 of an Act approved September 9, 1927 amending Section 1754 of the Code of Alabama of 1923, be amended to read as follows:—Section 1754. ELECTIONS, TIME OF HOLDING.—The regular municipal elections in cities and towns shall be held on the third Monday in September, 1936, and quadrennially thereafter. Municipal officers elected at such elections shall assume the duties of their respective offices on the first Monday in October following such election, unless herein otherwise provided. The voting places shall be fixed by the Council, one or more voting places for each ward, where such city or town has been divided into wards, and the election shall be conducted in the manner provided by law for general elections, except as otherwise provided in this chapter. Provided that this shall not affect cities under commission form of government.

Section 2. That Section 3 of an Act approved September 9, 1927 amending Section 1760 of the Code of Alabama of 1923, be amended to read as follows:—Section 1760—MAYOR, WHEN ELECTED; NO VOTE.—In all cities and towns at the general election to be held on the third Monday in September, 1936, and quadrennially thereafter, there shall be elected a mayor, who, in cities having a population of six thousand or more, according to the last or any subsequent federal census, shall not sit with the Council, nor have a vote in its proceedings, and he shall have the power and duties herein conferred. In all cities and towns having a population of less than six thousand inhabitants according to the last or any subsequent federal census, the legislative functions shall be exercised by the Mayor and five aldermen. The Mayor shall preside over all deliberations of the council. At his discretion he may vote as a member of the Council on any question coming to a vote, except in case of a tie, in which event he must vote.

The aldermen in such municipalities shall be elected by the city or town at large, at the first general election held on the third Monday in September, 1936, and quadrennially thereafter or from wards as the said councils may determine, not less than six months before an election.

Section 3. All laws and parts of laws in conflict herewith are hereby expressly repealed.

Section 4. This act shall be in force from and after its approval by the Governor.

Approved September 14, 1935.

No. 517)

(H. 635—Deloney.

### AN ACT

For The Relief of Frank M. Barry and to appropriate for this purpose the sum of \$86.54 out of any money in the State Treasury, not otherwise appropriated, in order to reimburse the said Frank M. Barry for an overpayment made by the said Frank M. Barry to the State Treasury through the Probate Judge of Colbert County, Alabama, in redeeming certain property sold for state and county taxes in the year 1932.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the sum of \$86.54 be and the same is hereby appropriated to Frank M. Barry out of any money in the State Treasury, not otherwise appropriated in order to reimburse the said Frank M. Barry for an over payment made by him to the State Treasury through the Probate Judge of Colbert County, Alabama, in redeeming certain property sold for state and county taxes in the year 1932.

Section 2. Be It Further Enacted that the State Comptroller is hereby authorized, empowered and directed to draw his warrant in said sum of \$86.54 to the said Frank M. Barry for said purpose.

Approved September 14, 1935.

No. 518)

(H. 654—Sanford.

### AN ACT

To amend Section 5311 of the Code of 1923.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 5311, Code of 1923, be amended so as to read as follows: Section 5311. WARRANT FOR EXECUTION OF CONVICT: ISSUE AND DELIVERY OF.—Whenever any person is sentenced to death, the Clerk of the court in

which the sentence is pronounced, shall, within ten days after sentence has been pronounced issue a warrant under the seal of the court for the execution of the sentence of death, which shall recite the fact of conviction, setting forth specifically the offense, the judgment of the court, the time fixed for his execution, and directed to the warden of Kilby prison at Montgomery, commanding him to proceed, at the time and place named in the sentence, to carry the same into execution, as provided in Section 5309 and shall deliver such warrant to the sheriff of the county in which such judgment of conviction was had to be by him delivered to the said warden together with the condemned person, as provided in the following section. Provided, however, that in case of appeal to the Supreme Court of Alabama by the defendant and the suspension of execution of sentence by the trial court said condemned person shall remain in the county jail of the county in which the conviction was had, unless the court in which the case is tried orders otherwise and upon the affirmation of the appeal by the Supreme Court said warrant, under seal of the court for the execution of death sentence together with the person of the condemned prisoner shall be delivered within ten days after such affirmation to the warden of Kirby Prison as above provided.

Approved September 14, 1935.

No. 520)

(H. 708—Shaver.

### AN ACT

To amend Section 1938 of the Code of Alabama of 1923:

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 1938 of the Code of Alabama of 1923 be, and the same is hereby, amended so as to read as follows: 1938 (1218) JUDGMENTS ON APPEALS FROM RECORDER'S COURT; PROCEEDINGS THEREON—If such defendant fails to appear in the court to which an appeal was taken, when the case is called for trial, unless good cause is shown to the court for his absence or default, the court shall enter up a judgment of forfeiture on said appeal bond against the defendant and his sureties as is authorized or provided by law in criminal cases, and a new warrant of arrest may issue from the court without any other authority therefor, and the court may also, on motion of the solicitor or his assistant where the prosecution is in the name of the state, or on motion of the attorney prosecuting for the city or town where the prosecution is in the name of the city or town, or in the absence of such motion *ex mero motu*, dismiss such



appeal. Upon the dismissal of such appeal, and by the fact of such dismissal of such appeal, the judgment of the recorder's court against the defendant shall be reinstated and become final and the clerk of such court to which such case was appealed, must, in writing, notify the mayor or other chief executive or the recorder of said city or town of the judgment of the court dismissing such appeal; Provided, however, that the court to which said appeal was taken may, on motion of the defendant made within thirty days from the date of the order of dismissal, set aside such dismissal and reinstate such appeal on such terms as the court may prescribe, for good cause shown by the defendant for his absence or default. When such appeal has been dismissed, the Court may at any time issue a warrant, and alias and pluries warrants, against the defendant, and the defendant may also be arrested without a warrant as an escape, and when so arrested, the defendant shall be delivered to the chief of police or marshal or any policeman of said city or town and punished in accordance with the original judgment of the recorder's court, and in case the defendant appears on such appeal and judgment is rendered against him, unless the fine and costs are presently paid, or a judgment confessed therefor in favor of the city or town by the defendant, with sureties in the same manner as provided for in convictions for violating the state laws, the said court to which said appeal was taken must remand the defendant to the city or town authorities for punishment, and the clerk of such court must in writing notify the mayor or other chief executive or the chief of police of said city or town of the judgment of the court trying such case, and said notice shall accompany the defendant when he is delivered to the city or town authorities for punishment; but, if the judgment of such court is paid, the clerk of said court may receive such fine and costs and the defendant may be discharged, and such clerk must, under a penalty of five per centum per month thereon for a failure to do so, pay said money to the treasurer of the city or town, or to the officer corresponding to the treasurer thereof within thirty days after he receives it. His bondsmen shall also be liable for said penalty, and the amount thereof with the money collected may be recovered on motion after three days' notice.

Approved September 14, 1935.

No. 521)

(H. 709—Shaver

## AN ACT

To amend Section 1950 of the Code of Alabama of 1923.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 1950 of the Code of Alabama of 1923 be, and the same is hereby, amended so as to read as follows: 1950. (1226) The mayor may remit fines, commute sentences and grant paroles. The mayor may remit fines and such costs as are payable to the city or town, and commute sentences imposed by the recorder or court to which an appeal was taken for violations of municipal ordinances, and may grant pardons and paroles, after conviction, for violations of such ordinances, but neither he nor any municipal officer may remit, commute or alter the fines and sentences, or either, imposed by the Recorder in the enforcement of state laws under the jurisdiction conferred by section 1945 (1221) of this Code, and he shall report his action to the council or other governing body at the first regular meeting thereof in the succeeding month with his reasons therefor in writing. The mayor may also authorize and direct the discharge on parole of any person under sentence for violation of a municipal ordinance without granting a pardon, and prescribe the terms upon which such person so paroled shall have his sentence suspended. Upon failure of any person so paroled to observe the conditions of his parole to be determined by the mayor, the mayor shall have the authority to direct the re-arrest and return of such person to custody. Any person whose parole has expired by limitation of time who fails on the expiration of such parole to voluntarily surrender himself to the proper authorities of the city or town thereby becomes an escape and may be arrested without a warrant. Any person so paroled, when arrested for violation of the terms of his parole, or for failure to voluntarily surrender on expiration thereof, and any person who voluntarily surrenders on the expiration of his parole, shall be required to carry out the sentence of the recorder or of the court as though no parole had been granted him, notwithstanding his sentence would have ended but for the suspension thereof by the parole. As used in this section the term mayor shall include city commissioner or other officer or official body having the authority of mayor.

Approved September 14, 1935.

No. 522)

(H. 751—Sanford.

**AN ACT**

To prohibit the use of hoop nets, fish baskets and certain other fishing devices in artificially impounded public waters of this State, and in the public waters within one mile below any lock or dam; to prohibit the sale of bass, commonly called trout or green trout, within the State of Alabama, regardless of where taken; to provide for penalties for violations of this Act; to make the possession of prohibited fishing devices on, at or within one-half mile of such waters or on a boat on the waters in which the use of such devices is prohibited a violation of law; to provide for the confiscation of prohibited devices; and to repeal all laws or parts of laws in conflict with this Act.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the use of hoop nets, gill nets, trammel nets, seines and all similar fishing devices is, by this Act, prohibited in all artificially impounded public waters of this State, and in all waters within one mile below any lock or dam constructed on any river or other body of public water in this State.

Section 2. That the sale of bass, commonly called trout or green trout, regardless of where taken, is, by this Act, prohibited within the State of Alabama.

Section 3. That the possession of any commercial fishing device mentioned in this Act, on, at or within one-half mile of any waters in which such devices are prohibited by the game and fish laws of this State, or on a boat on such waters, is prima facie evidence of a violation of the fishing laws of the State of Alabama.

Section 4. Any lawful officer authorized or designated by law to enforce the game and fish laws of this State shall confiscate and hold for evidence in the courts of this State all fishing devices mentioned in this Act when same are being used or held in possession on or in the waters of this State in which such devices are prohibited, and upon conviction of any person for using same said devices shall be destroyed.

Section 5. A violation of any of the provisions of this Act shall constitute a misdemeanor and upon conviction the person so violating shall be fined not less than ten (\$10.00) dollars nor more than fifty (\$50.00) dollars for each offense.

Section 6. All laws or parts of laws in conflict with the provisions of this Act are expressly repealed.

Section 7. This Act shall become effective on approval of the Governor.

Approved September 14, 1935.

No. 523)

(H. 761—Staples.

## AN ACT

To give to the State Docks Commission full power to establish a Foreign Trade Zone as defined by the Laws of the United States, and to give the said Commission power to comply with the Laws, Rules and Regulations prescribed by the Federal Government for the establishment of such Zones.

*Be it enacted by the Legislature of Alabama:*

Section 1. That in order to comply with the Laws, Rules and Regulations of the Federal Government governing the establishment of Foreign Trade Zones, under an Act of Congress entitled "An Act to provide for the establishment, operation and maintenance of foreign trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes, approved June 18th, 1934," the State Docks Commission is authorized to establish at the Harbors and Seaports within this State a Foreign Trade Zone and to establish Rules and Regulations for controlling and conducting said zone.

Approved September 14, 1935.

No. 524)

(H. 832—Sanford.

## AN ACT

To amend Section 6767 of the Code of Alabama, 1923.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 6767 of the Code of Alabama, 1923, be, and the same hereby is amended so as to read as follows: 6767. PENALTY FOR VOTING AGAINST PUBLICATION. —If the commissioners' court shall fail to make the said publication as required by the preceding section, each member composing said court who votes against said publication is made subject to a penalty of fifty dollars, (\$50.00), to be collected by suit; and the circuit or county solicitor shall bring said suit, and prosecute the same, in the name of the county as plaintiff. The compensation to be paid for the publication herein provided for shall not exceed one and one-half cent per word, in counties of less than forty thousand (40,000) population, according to the last or any subsequent federal census.

Approved September 14, 1935.

No. 525)

(H. 834—Lusk

**AN ACT**

To amend Section 251 of an act entitled "An Act to provide for the general revenue of the State of Alabama" approved July 10th, 1935.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 251 of an act entitled "An Act to provide for the general revenue of the State of Alabama" approved July 10th, 1935; be amended so as to read as follows: Section 251. When the lands are bid in for the State at tax sales the State shall be entitled to possession of said lands immediately upon execution of the certificate of sale by the Judge of Probate. If possession be not surrendered within six months from the date of sale after demand therefor is made by the State Land Commission in behalf of the State, or if the certificate has been assigned, by the assignee, then the State Land Commissioner in the name of the State or the assignee of the State, if the certificate has been assigned, may maintain an action in ejectment or a statutory real action in the nature of ejectment, or other proper remedy for the recovery of the possession of the lands purchased at such sales, and shall be entitled to hold the possession thereof on recovery, subject, however, to all rights of redemption provided for in this act. If the mortgage or other instrument creating a lien under which a party seeks to redeem is duly recorded at the time of said tax sale, the said party shall, in addition to the time in this act specified, have the right to redeem said real estate sold, or any portion thereof covered by his mortgage or lien, at any time within one year from the date of written notice from the purchaser of his purchase of said lands at tax sale, served upon such party, and notice served upon either the original mortgagee or lien holder or their transferee of record, or their heirs, personal representatives or assigns, shall be sufficient notice. Such notice shall be given by registered mail, return receipt demanded, addressed to the last known address of the mortgagee or lien holder.

Section 2. The Provisions of this Act shall go into effect on the first day of October, 1935.

Approved September 14, 1935.

No. 526)

(H. 835—Lusk.

## AN ACT

To Amend Section 269 of an act entitled "An act to provide for the general revenue of the State of Alabama" approved July 10th, 1935.

*Be it enacted by the Legislature of Alabama:*

Section 1—That Section 269 of an act entitled "An act to provide for the general revenue of the State of Alabama" approved July 10th, 1935, be amended so as to read as follows:—Section 269. (a) In order to obtain the redemption of land from tax sales, where the same has been heretofore or hereafter sold to the State, the party desiring to make such redemption shall deposit with the judge of probate of the county in which the land is situated, the amount of money for which the lands were sold, with interest thereon at the legal rate of interest prevailing at the time said property was sold for taxes, together with the amount of all taxes found to be due on such land since the date of sale, as provided herein, with interest thereon at the legal rate of interest prevailing from the maturity of such taxes, and all costs and fees due to officers as set out in the following sections:—(b) Upon application to the probate judge to redeem land, where the same has been sold to the State for taxes, which application shall be made on blank forms furnished by the State, Land Commissioner, the probate judge shall submit such application to the Tax Assessor of the county in which the land sought to be redeemed is located and the Assessor shall, without delay, enter on such application an assessment value for each of the years for which taxes are due, subsequent to the year for which such land was sold to the State for taxes, and such assessment value shall be sixty per cent of the fair and reasonable market value of such lands as of October 1st of the year or years subsequent to the year for which the land was sold for taxes. (c) The redemptioner shall deposit with the probate judge the amount of money for which lands were sold for taxes, plus the amount of money due for subsequent years based on the assessment value as required to be fixed in sub-section (b) of this section, and interest, costs and fees as provided in sub-section (a) of this Section. This act shall take effect upon approval by the Governor.

Approved September 14, 1935.

No. 527)

(H.859—Sanford.

## AN ACT

To provide for the Attorney General Supplying to the Probate Judges of the several Counties of the State, copies of his written opinions, in pamphlet form, each month.

*Be it enacted by the Legislature of Alabama:*

Sec. 1. That in addition to the other duties of the attorney general and other reports now required of him by law, it shall be the duty of the attorney general each three months, to publish in pamphlet form copies of such written official opinions as shall have been rendered by him, to the various official departments and officers who under the law have the right to require his opinion on matters affecting them, during the month next preceding the publication thereof, as herein provided.

Sec. 2. That on or before the 15th day of each third month the attorney general shall cause to be issued in pamphlet form such opinions as shall have been so rendered during the month next preceding, and shall cause the same to be printed in pamphlet form of sufficient number as to supply to each probate judge in the state six (6) copies thereof, and shall on or before such date of each month mail to each of the several probate judges said number of copies of said opinions. The several probate judges shall keep at least one copy thereof on file for his own use and that of the public, and upon application, shall deliver a copy to the clerk of the circuit court, the sheriff, tax collector, tax assessor and county superintendent of education.

Sec. 3. That the expense of printing and binding said reports shall be at the expense of the state and shall be paid in the same manner as now or may be hereafter provided for payment for printing and binding for the state.

Approved September 14, 1935.

No. 528)

(H. 880—Lusk.

## AN ACT

To amend Section 252 of an act entitled "An Act to provide for the general revenue of the State of Alabama," approved July 10th, 1935.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 252 of an act entitled "An Act to provide for the general revenue of the State of Alabama, approved July 10th, 1935," be amended so as to read as follows: Section 252. Any purchaser of lands at a tax sale other than the State or anyone claiming under him, shall be entitled to possession of said lands

immediately upon receipt of certificate of sale from the Tax Collector, and if possession be not surrendered within six months after demand therefor is made by said purchaser or his assignee, the said purchaser or his assignee may maintain an action in ejectment or a statutory real action in the nature of ejectment, or other proper remedy for the recovery of the possession of the lands purchased at such sales, and shall be entitled to hold the possession thereof on recovery, subject, however, to all rights of redemption provided for in this act. If the mortgage or other instrument creating a lien under which a party seeks to redeem is duly recorded at the time of said tax sale, the said party shall, in addition to the time in this Act specified, have the right to redeem said real estate sold, or any portion thereof covered by his mortgage or lien, at any time within one year from the date of written notice from the purchaser of his purchase of said lands at tax sale, served upon such party, and notice served upon either the original mortgagee or lien holder or their transferee of record, or their heirs, personal representatives or assigns, shall be sufficient notice. Such notice shall be given by registered mail, return receipt demanded, addressed to the last known address of the mortgagee or lien holder.

Section 2. The provisions of this Act shall go into effect on the first day of October, 1935.

Approved September 14, 1935.

No. 529)

(H. 917—Chichester.

### AN ACT

To Amend Sections 2, 3 and 4 of an Act approved February 10, 1927, entitled "An Act to define who are agents of insurance companies; to provide for the licensing, supervision and regulation of such insurance agents; and to provide penalties for violation of laws and regulations governing insurance agents." (General Acts 1927, page 34.)

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 2 of an Act entitled "An Act to define who are agents of insurance companies; to provide for the licensing, supervision and regulation of such insurance agents; and to provide penalties for violation of laws and regulations governing insurance agents" (which act appears in the General Acts of Alabama of 1927, page 34) be amended so as to read as follows: "Section. 2. AGENTS MUST QUALIFY BEFORE ENTERING IN BUSINESS; REQUIREMENTS: No person shall engage in business as an insurance agent until he shall have complied with laws governing insurance agents and procured a license as required by the laws of Alabama. Each applicant for such li-



cense shall file with the Superintendent of Insurance his written application for a license authorizing him to engage in business as an insurance agent, which application shall be accompanied by a statement signed and sworn to by such applicant on a blank furnished by the Superintendent of Insurance setting forth such facts as he may require, and shall be accompanied by the affidavit of an official or representative of the insurer authorized to transact business in the State, or of a licensed agent of the State, that the applicant is personally known to him; that the applicant has experience or will be instructed in the line or lines of insurance for which he seeks a license; that the applicant is of good reputation and worthy of a license. Such applicant for license shall also satisfy the Superintendent of Insurance by such other competent evidence as said Superintendent shall require or as may be otherwise prescribed by law of his competency, of his knowledge of the fundamental principles of insurance, insurance business, practices, and policy or contract classifications and provisions, with particular reference to the class of business in which the applicant seeks to engage and the business ethics pertinent thereto; and shall make such further proof as the Superintendent shall require of the applicant's good moral character and trustworthiness and qualification to engage in the business of insurance agent in such manner as will reasonably protect the interest of the public."

Section 2. That Section 3 of said Act entitled "An Act to define who are agents of insurance companies; to provide for the licensing, supervision and regulation of such insurance agents; and to provide penalties for violation of laws and regulations governing insurance agents" (which Act appears in the General Acts of Alabama, 1927, page 34) be amended so as to read as follows: "Section 3. **APPLICANT SHALL BE EXAMINED AND LICENSED IF ELIGIBLE AT EXPIRATION OF LICENSE.** The Superintendent of Insurance in person or by his deputy shall examine each person applying for the first time for a license to act as an insurance agent and, in his discretion, may examine any applicant for renewal of such license as to his qualifications to act as such agent. If said Superintendent of Insurance shall upon such examination find that such applicant possesses the qualifications required by the foregoing section hereof and that he is generally familiar with the provisions of the laws of this State relating to insurance and with the terms and conditions of the policies or contracts he is proposing to solicit, negotiate or effect, he shall issue to such applicant an insurance agent's license to transact business in the State on behalf on any insurer certifying such applicant's name; and if the Superintendent of Insurance shall find that such person does not possess such qualifications he shall reduce his findings to writing under his official seal, file the

same in his office, and shall deny such applicant a license. Such licenses shall expire on December thirty-first of each year unless sooner revoked for cause by said Superintendent of Insurance."

Section 3. That Section 4 of said Act entitled "An Act to define who are agents of insurance companies; to provide for the licensing, supervision and regulation of such insurance agents; and to provide penalties for violation of laws and regulations governing insurance agents" (which act appears in the General Acts of Alabama, 1927, page 34) be amended so as to read as follows: "Section 4. REVOCATION OR SUSPENSION OR REFUSAL TO LICENSE FOR CAUSE. Said Superintendent of Insurance, after twenty days notice of his intention so to do, given in writing by registered mail, return receipt requested, to the agent and company or companies represented by him, may revoke any agent's license or suspend any agent's license or refuse to renew any agent's license which may be then expired, if after investigation and hearing, it is established to his reasonable satisfaction that the holder of such license or the applicant for renewal therefor, as the case may be (a) has violated any provision of the insurance laws of this state, or has violated any laws in the course of his dealings as agent; or (b) has made a material misstatement in the application for his license; or (c) has been guilty of fraudulent or dishonest practices; or (d) has made any fraudulent misrepresentations in connection with the solicitation or acceptance of any application, the issuance of any policy, or the collection of any premiums; or (e) has withheld or has failed upon proper demand to account to any insurance company or any agent or any policyholder for any moneys or funds of such company, agent or policyholder which have come into his possession; or (f) has demonstrated his incompetency or untrustworthiness to transact business as an insurance agent in such manner as will reasonably protect the interest of the public; or (g) has been guilty of unfair business practices in his dealings as agent, and, without exclusion of any other action which shall constitute unfair business practices, it shall constitute unfair business practice within the meaning of this section for any such agent to induce, persuade or advise any person or policy holder to surrender or cause to be cancelled any contract or policy issued by any insurance company to such persons or policyholder in exchange for a contract or policy of insurance offered by such agent, or his privies, where such surrender or cancellation shall proximately result to the financial detriment of such person or policyholder. Upon the conclusion of any such investigation and hearing the Superintendent of Insurance shall reduce his findings in connection therewith to writing under his official seal and file the same in his office. The action of the Superintendent of Insurance in refusing to issue or renew or in revoking or suspending any license may, upon appro-

prate petition filed at any time within thirty (30) days thereafter, be reviewed by the Circuit Court of Montgomery County on a writ of certiorari. Upon the filing of such petition, the petitioner shall file with the Clerk of such Court a bond, with good and sufficient sureties to be approved by the Clerk, conditioned to pay all costs which may be assessed against the petitioner in such proceeding."

Section 4. This Act shall take effect immediately upon its passage and approval.

Approved September 14, 1935.

No. 530)

(H. 921—Robertson (Cullman)

### AN ACT

To amend Schedule 158.3 of Section 348, in Chapter 6 of Article XIII, of an Act of the Legislature of Alabama approved July 10, 1935, entitled "An Act to provide for the General Revenue of the State of Alabama."

*Be it enacted by the Legislature of Alabama:*

Section 1: That Schedule 158.3 of Section 348, in Chapter 6 of Article XIII, of an Act of the Legislature of Alabama approved July 10, 1935 entitled "An Act to provide for the General Revenue of the State of Alabama," be, and the same is hereby, amended so as to read as follows: Schedule 158.3. (a) Each automobile, motor car or motor bus used for transporting passengers paying fare or charges, shall pay the following named amounts for license tax: With seating capacity of five persons, or less \$37.50, with seating capacity of more than five and not exceeding ten, \$50.00. With seating capacity of more than ten and not exceeding fifteen, \$75.00. With seating capacity of more than fifteen and not exceeding twenty, \$100.00. With seating capacity of more than twenty and not exceeding forty, \$150.00. With seating capacity exceeding forty, \$200.00. (b) Each person desiring to take out a license to operate a motor vehicle for the transportation of passengers for hire, except taxicabs and touring cars hired by the hour or for special trips on terms agreed upon between the passenger and the carrier at the time of entering upon such service, shall at the time he applies for such license make out in writing a statement describing the route over which such motor vehicle, shall be operated and naming the terminal points thereof, and such route shall be plainly indicated on the motor vehicle in letters of sufficient size to be read at a distance of fifty feet. (c) For each motor vehicle operated as a part of a Taxicab, or similar system, the following license tax shall be charged: (a) For each automobile not exceeding 2500 pounds in weight, Eleven and 25/100 Dollars (\$11.25); (b) For each automobile weighing over 2500 pounds, but not ex-

ceeding 3000 pounds in weight, sixteen and 75/100 Dollars (\$16.75); (c) For each automobile weighing in excess of 3000 pounds, but not exceeding 3500 pounds in weight, Nineteen and 25/100 Dollars (\$19.25); (d) For each automobile weighing over 3500 pounds, but not exceeding 4000 pounds in weight, Twenty-six and 25/100 Dollars (\$26.25); (e) For each automobile weighing in excess of 4000 pounds Thirty Dollars (\$30.00).

Approved September 14, 1935.

No. 531)

(H. 954—Welch

### AN ACT

To amend Section 6 of an Act approved March 10, 1933, entitled "An Act to provide for the designation by the Court of County Commissioners, Board of Revenue or like Governing Body depositaries for the official funds of County Tax Collectors, County Treasurers, Probate Judge, Circuit Court Clerks, Registers of the Circuit Court, and to provide for the designation by the County School Boards depositaries for the school funds received by the County Treasurers of School Funds; and for the liability on the official bonds of County Tax Collectors, County Treasurers, Probate Judges, Clerks of the Circuit Courts, Registers of the Circuit Court and County Treasurers of School Funds, in the event of such designation by the Court of County Commissioners, Board of Revenue or like governing body of such county depositaries, to provide for weekly disbursements and remittances by the county tax collectors, and as often as it may be necessary to prevent his having on hand at any one time for a period of more than twenty-four hours more than \$7,500.00, and in the event depositaries are named or designated for them, and providing that claims against such depositaries shall be preferred claims."

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 6 of the General Acts of 1933, page 52, be and the same is amended to read as follows: Section 6. In the event of the naming of such depository for the County Tax Collector of any County and the use of such depository by him, such County Tax Collector shall make weekly reports, distributions and remittances to the proper authorities of the funds so deposited; and as often as it may be necessary to prevent his having on hand at any time for a period of more than ten (10) days more than \$7,500.00.

Section 2. All Laws and parts of Laws in conflict herewith be and the same are hereby repealed.

Section 3. This Act shall take effect immediately upon the passage of the Act and approval by the Governor.

Approved September 14, 1935.

No. 532)

(H. 976—Adams.)

## AN ACT

To amend Section 376 of the Code of Alabama of 1923, as amended by an act of the Legislature of Alabama of 1927 entitled, "An Act to amend sections 375, 376, 387, 392, 393, 402 and 403 of the Code of 1923," approved August 20, 1927.

*Be it enacted by the Legislature of Alabama:*

Section 1. That section 376 of the Code of Alabama of 1923, as amended by an act of the Legislature of Alabama of 1927 entitled, "An Act to amend sections 375, 376, 387, 392, 393, 402 and 403 of the Code of 1923," approved August 20, 1927, be and the same is hereby amended to read as follows: 376 SPECIAL REGISTRATION. In addition to the regular registration provided in this article, the courts of county commissioners, boards of revenue, county commissioners, or other courts of like jurisdiction of the several counties may make an order requiring the books of registration to be opened for ten working days during the month of January, 1921, and each two years thereafter, for the purpose of registering voters, except in counties having more than one hundred fifty thousand population, as shown by the last or any subsequent federal census, it shall be mandatory for the board of registrars in addition to the meetings provided for in section 375 to meet as follows and for the following purposes: The board shall meet on the second Monday in April, the fourth Monday in June, the first Monday in August, the first Monday in October and the first Monday in December, 1936, and each two years thereafter, and shall remain in session at each of said meetings for ten days for the purpose of registering persons entitled to register; the board shall meet on the First Monday in February, the first Monday in April, the first Monday in June and first Monday in August, 1937, and each two years thereafter, and shall remain in session at each of said meetings for ten days for the purpose of registering persons entitled to register.

Section 2. That this act shall take effect upon its approval.

Approved September 14, 1935.

## AN ACT

To empower municipal corporations to provide for, regulate and restrict the segregation of business, industrial and residential sections, the height, number of stories, size of buildings and other structures, the percentage of lot that may be occupied, the distance of buildings from streets, alleys or other public ways, the distance between buildings, the density of population and the location and use of buildings, structures and land, to divide the municipality into zones or districts; to regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or lands within such zones or districts, and the housing or residence therein of the different classes of inhabitants; to provide for the creation of a zoning Commission, and the power, jurisdiction and authority thereof; to provide for a board of Zoning Adjustment and define the authority, powers and functions of such board of Zoning Adjustment, its procedure and appeal from its decisions; and to provide remedies for the enforcement of ordinances, resolutions or regulations made by such municipalities under the authority of this act.

*Be it enacted by the Legislature of Alabama:*

Section 1.—GRANT OF POWER. For the purpose of promoting health, safety, morals or the general welfare of the community, the legislative body of incorporated cities and towns is hereby empowered to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purpose.

Section 1½. DISCRIMINATION. For the promotion of the public peace, order, safety or general welfare, such municipal corporations may, within residence districts, established pursuant to this act, further regulate as to the housing or residence therein of the different classes of inhabitants, but such regulations are not hereby authorized as will discriminate in favor of or against any class of inhabitants.

Section 2.—DISTRICTS. For any or all of said purposes the local legislative body may divide the municipality into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of this act; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations in any one district may differ from those in other districts.

Section 3.—PURPOSE IN VIEW. Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets, to secure safety from fire, panic,

and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality.

Section 4. **METHOD OF PROCEDURE.** The legislative body of such municipality shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established and enforced, and from time to time amended, supplemented or changed, and may adopt such ordinances as may be necessary to carry into effect and make effective the provisions of this act. No ordinance shall be passed by any municipal corporation under the authority of this act unless and until the proposed ordinance has been published at least once a week for two consecutive weeks in advance of its passage in a newspaper of general circulation within the municipality, or, if there is no news paper, then by posting the same in four conspicuous places within the municipality, together with a notice stating the time and place that the ordinance is to be considered by the municipal legislative authorities, and stating further that at such time and place all persons who desire shall have an opportunity of being heard in opposition to or in favor of such ordinance. No such ordinance shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard.

Section 5. **CHANGES.** Such regulations, restrictions and boundaries, and ordinances passed under the authority of this act, may from time to time be amended, supplemented, changed, modified or repealed. The provisions of Section 4 hereof relative to public hearings and official notices shall apply equally to all changes and amendments.

Section 6. **ZONING COMMISSION.** In availing itself of the powers conferred by this act, the legislative body of any incorporated city or town may appoint a commission, to be known as the Zoning Commission, to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commission shall take a preliminary report and hold public hearing thereon before submitting its final report. In case of the appointment of such zoning commission, the municipal legislative body shall not hold its public hearings or take action until it has received the final report of such commission. Where

a city plan commission already exists, it may be appointed as the "Zoning Commission".

Section 7. BOARD OF ADJUSTMENT. In availing itself of the powers conferred by this act, the legislative body of any incorporated city or town may provide for the appointment of a board of adjustment, and in the regulations and restrictions adopted pursuant to the authority of this act, may provide that the said board of adjustment shall in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purposes and interest and in accordance with general or specific rules therein contained. The board of adjustment shall consist of five members, each to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this act. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and of other official actions. All of which shall be immediately filed in the office of the board and shall be a public record. Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall transmit forthwith to the board all papers constituting the record upon which the action appealed was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown. The board of adjustment shall fix a reason-



able time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney. The board of adjustment shall have the following powers: 1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this act or of any ordinance adopted pursuant thereto. 2. To hear and decide special exceptions to the terms of the terms of the ordinance upon which such board is required to pass under such ordinance. 3. To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done. In exercising the above mentioned powers such board may, in conformity with the provisions of this act, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as ought be made, and, to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance. The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called on by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

Section 8.—REMEDIES. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building structure or land is used in violation of this act or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

**Section 9. APPEALS.** Any party aggrieved by any final judgment or decision of such Board of Zoning Adjustment, may within fifteen days thereafter appeal therefrom to the Circuit Court or Court of Like Jurisdiction, by filing with such board a written notice of appeal specifying the judgment or decision from which appeal is taken. In case of such appeal such Board shall cause a transcript of the proceedings in the cause to be certified to the court to which the appeal is taken and the cause in such court be tried *de novo*.

**Section 10. CONFLICT WITH OTHER LAWS.** Wherever the regulations made under authority of this act require a greater width or size of yards or courts or other open spaces, or require a lower height of buildings or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this act shall govern. Wherever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards, courts, or other open spaces, or require a lower height of buildings or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this act, the provisions of such statute or local ordinance or regulation shall govern.

**Section 11—LEGAL STATUS.** If any section, clause, provision or portion of this act shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause or provision or portion of this act which is not in and of itself invalid or unconstitutional.

**Section 12. PRECEDENT.** That all laws or parts of laws in conflict with this act be, and the same are hereby, repealed, provided, however, that nothing herein contained shall be held to repeal, modify, or change in any way, any regulations, restrictions, boundaries, or ordinances now existing or in force in any incorporated city or town in this State, and provided further, that this act shall not be held to repeal Sections 1878 and 1879 of the Code of Alabama of 1923, but on the contrary said sections shall remain in full force and effect, the provisions of this act being cumulative and additional to said Code sections.

Approved September 14, 1935.

## AN ACT

To provide for city and regional planning, the creation, organization and powers of planning commissions, the personnel, powers and duties, the financial and legal status and its relation to zoning. The regulation of subdivisions of land. The acquisition of right to keep planned streets free from buildings, compensation, appraisal and appeals and to provide penalties for violating this act.

*Be it enacted by the Legislature of Alabama:*

Section 1.—DEFINITIONS. TITLE 1.—MUNICIPAL PLANNING AND PLANNING COMMISSIONS—2. Grant of power to municipality, 3. Personnel of the commission, 4. Organization and rules, 5. Staff and finances, 6. General powers and duties, 7. Purposes in view, 8. Procedure of commission, 9. Legal status of official plan, 10. Miscellaneous powers and duties of commission, 11. Zoning TITLE II.—SUBDIVISION CONTROL. 12. Subdivision jurisdiction 13. Scope of control of subdivision 14. Subdivision regulations 15. Procedure, legal effect of approval of plat 16. Penalties for transferring lots in unapproved subdivisions 17. County recorder's duties 18. Improvements in unapproved streets 19. Erection of buildings 20. Status of existing platting statutes. TITLE III.—BUILDINGS IN MAPPED STREETS—21. Reservation of locations of mapped streets for future public acquisition 22. Compensation for such reservations 23. Report of appraisers and council's action 24. Appeal from compensation awards 25. No compensation for buildings in reserved street locations. TITLE IV.—REGIONAL PLANNING AND PLANNING COMMISSIONS 26. Creation of commission 27. Organization of commission 28. Powers and duties of the commission 29. Certification of the regional plan. 30. Adoption of regional plan by municipalities 31. Legal status of regional plan. TITLE V.—MISCELLANEOUS PROVISIONS—32. Saving clause 33. Repeal 34. Time of taking effect.

Section 1.—DEFINITIONS. For the purpose of this act certain terms are defined as provided in this section. Wherever appropriate the singular includes the plural and the plural includes the singular. "Municipality" or "municipal" includes or relates to cities, towns, villages, and other incorporated political subdivision. "Mayor" means the chief executive of the municipality, whether the official designation of his office be mayor, city manager, or otherwise. "Council" means the chief legislative body of the municipality. "County Commissioners" means the chief administrative or legislative body or board of the county. The term "streets" includes streets, avenues, boulevards, roads, lanes, alleys, viaducts, and other ways. "Subdivision" means the division of a

lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

#### **TITLE 1.—MUNICIPAL PLANNING AND PLANNING COMMISSIONS—**

**Section 2.—GRANT OF POWER TO MUNICIPALITY.** Any municipality is hereby authorized and empowered to make, adopt, amend, extend, add to, or carry out a municipal plan as provided in this act and create by ordinance a planning commission with the powers and duties herein set forth. The planning commission of a city shall be designated city planning commission; of a town or village, town or village planning commission; and of any other municipality, such designation as its council may specify.

**Section 3.—PERSONNEL OF THE COMMISSION.** The commission shall consist of nine members, namely, the mayor, one of the administrative officials of the municipality selected by the mayor, and a member of council to be selected by it as members ex officio, and six persons who shall be appointed by the mayor, if the mayor be an elective officer, otherwise by such officer as council may in the ordinance creating the commission designate as the appointing power. All members of the commission shall serve as such without compensation, and the appointed members shall hold no other municipal office, except that one of such appointed members may be a member of the zoning board of adjustment or appeals. The terms of ex officio members shall correspond to their respective official tenures, except that the term of the administrative official selected by the mayor shall terminate with the term of the mayor selecting him. The term of each appointed member shall be six years or until his successor takes office, except that the respective terms of five of the members first appointed shall be one, two, three, four, and five years. Members other than the member selected by council may, after a public hearing, be removed by the mayor for inefficiency, neglect of duty, or malfeasance in office. Council may for like cause remove the member selected by it. The mayor or council, as the case may be, shall file a written statement of reasons for such removal. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor in the case of members selected or appointed by him, by council in the case of the councilmanic member, and by the appointing power designated by council in municipalities in which the mayor is not an elective officer.

**Section 4.—ORGANIZATION AND RULES.** The commission shall elect its chairman from amongst the appointed members and create and fill such other of its offices as it may determine. The term of chairman shall be one year, with eligibility for reelec-

tion. The commission shall hold at least one regular meeting in each month. It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record.

Section 5.—STAFF AND FINANCES. The commission may appoint such employees, as it may deem necessary for its work, whose appointment, promotion, demotion, and removal shall be subject to the same provisions of law as govern other corresponding civil employees of the municipality. The commission may also contract with city planners, engineers, architects, and other consultants for such services as it may require. The expenditures of the commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by council, which shall provide the funds, equipment, and accommodations necessary for the commission's work.

Section 6.—GENERAL POWERS AND DUTIES. It shall be the function and duty of the commission to make and adopt a master plan for the physical development of the municipality, including any areas outside of its boundaries which, in the commission's judgment, bear relation to the planning of such municipality. Such plan, with the accompanying maps, plats, charts, and descriptive matter shall show the commission's recommendations for the development of said territory, including, among other things, the general location, character, and extent of streets, viaducts, subways, bridges, waterways, waterfronts, boulevards, parkways, playgrounds, squares, parks, aviation fields, and other public ways, grounds and open spaces, the general location of public buildings and other public property, and the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power and other purposes; also the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, grounds, open spaces, buildings, property, utilities, or terminals; as well as a zoning plan for the control of the height, area, bulk, location, and use of buildings and premises. As the work of making the whole master plan progresses, the commission, may from time to time, adopt and publish a part or parts thereof, any such part to cover one or more major sections or divisions of the municipality or one or more of the aforesaid or other functional matters to be included in the plan. The commission may from time to time amend, extend, or add to the plan.

Section 7.—PURPOSES IN VIEW. In the preparation of such plans the commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the municipality and with due regard to its relation to neighboring

territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the municipality and its environs which will, in accordance with present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities and other public requirements.

Section 8.—PROCEDURE OF COMMISSION. The commission may adopt the plan as a whole by a single resolution or may by successive resolutions adopt successive parts of the plan, said parts corresponding with major geographical sections or divisions of the municipality or with functional subdivisions of the subject matter of the plan, and may adopt any amendment or extension thereof or addition thereto. Before the adoption of the plan or any such part, amendment, extension, or addition the commission shall hold at least one public hearing thereon, notice of the time and place of which shall be given by one publication in a newspaper of general circulation in the municipality and in the official gazette, if any, of the municipality. The adoption of the plan or of any such part or amendment or extension or addition shall be by resolution of the commission carried by the affirmative votes of not less than six members of the commission. The resolution shall refer expressly to the maps and descriptive and other matter intended by the commission to form the whole or part of the plan, and the action taken shall be recorded on the map and plan and descriptive matter by the identifying signature of the chairman and/or secretary of the commission. An attested copy of the plan or part thereof shall be certified to council and to the county recorder.

Section 9.—LEGAL STATUS OF OFFICIAL PLAN. Whenever the commission shall have adopted the master plan of the municipality or of one or more major sections or districts thereof no street, square, park, or other public way, ground, or open space, or public building or structure, or public utility, whether publicly or privately owned, shall be constructed or authorized in the municipality or in such planned section and district until the location, character, and extent thereof shall have been submitted to and approved by the commission; Provided, that in case of disapproval the commission shall communicate its reasons to council, which shall have the power to overrule such disapproval by a recorded vote of not less than two-thirds of its entire membership: Pro-

vided, however, that if the public way, ground, space, building, structure, or utility be one the authorization or financing of which does not, under the law or charter provisions governing same, fall within the province of the municipal council, then the submission to the planning commission shall be by the board, commission, or body having such jurisdiction, and the planning commission's disapproval may be overruled by said board, commission, or body by a vote of not less than two-thirds of its membership. The failure of the commission to act within 60 days from and after the date of official submission to the commission shall be deemed approval.

**Section 10.—MISCELLANEOUS POWERS AND DUTIES OF COMMISSION.** The commission shall have power to promote public interest in and understanding of the plan and to that end may publish and distribute copies of the plan or of any report and may employ such other means of publicity and education as it may determine. Members of the commission, when duly authorized by the commission, may attend city planning conferences or meetings of city planning institutes or hearings upon pending city planning legislation, and the commission may, by resolution spread upon its minutes, pay the reasonable traveling expenses incident to such attendance. The commission shall, from time to time, recommend to the appropriate public officials programs for public structures and improvements and for the financing thereof. It shall be part of its duties to consult and advise with public officials and agencies, public-utility companies, civic, educational, professional, and other organizations, and with citizens with relation to the protecting or carrying out of the plan. The commission shall have the right to accept and use gifts for the exercise of its functions. All public officials shall, upon request, furnish to the commission, within a reasonable time, such available information as it may require for its work. The commission, its members, officers, and employees, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain necessary monuments and marks thereon. In general, the commission shall have such powers as may be necessary to enable it to fulfill its functions, promote municipal planning, or carry out the purposes of this act.

**Section 11.—ZONING.** The commission shall have all powers heretofore granted by law to the zoning commission of the municipality, and, from and after the creation of a planning commission in such municipality, all powers and records of the zoning commission shall be transferred to the planning commission: Provided, however, that in the event that the existing commission shall be nearing the completion of its zoning plan, council may, by resolution, postpone the said transfer of the zoning commission's powers until the completion of such zoning plan; but such postponement shall not exceed a period of six months.

## TITLE II.—SUBDIVISION CONTROL—

Section 12.—SUBDIVISION JURISDICTION. The territorial jurisdiction of any municipal planning commission over the subdivision of land shall include all land located in the municipality and all land lying within 5 miles of the corporate limits of the municipality and not located in any other municipality, except that, in the case of any such nonmunicipal land lying within 5 miles of more than one municipality having a planning commission, the jurisdiction of each such municipal planning commission shall terminate at a boundary line equidistant from the respective corporate limits of such municipalities.

Section 13.—SCOPE OF CONTROL OF SUBDIVISIONS. Whenever a planning commission shall have adopted a major street plan of the territory within its subdivision jurisdiction or part thereof, and shall have filed a certified copy of such plan in the office of the county recorder of the county in which such territory or part is located, then no plat of a subdivision of land within such territory or part shall be filed or recorded until it shall have been approved by such planning commission and such approval entered in writing on the plat by the chairman or secretary of the commission.

Section 14.—SUBDIVISION REGULATIONS. Before exercising the powers referred to in section 13, the planning commission shall adopt regulations governing the subdivision of land within its jurisdiction. Such regulations may provide for the proper arrangement of streets in relation to other existing or planned streets and to the master plan, for adequate and convenient open spaces for traffic, utilities, access of fire-fighting apparatus, recreation, light and air, and for the avoidance of congestion of population, including minimum width and area of lots. Such regulations may include provisions as to the extent to which streets and other ways shall be graded and improved and to which water and sewer and other utility mains, piping, or other facilities shall be installed as a condition precedent to the approval of the plat. The regulations or practice of the commission may provide for a tentative approval of the plat previous to such installation; but any such tentative approval shall be revocable and shall not be entered on the plat. In lieu of the completion of such improvements and utilities prior to the final approval of the plat, the commission may accept a bond with surety to secure to the municipality the actual construction and installation of such improvements or utilities at a time and according to specifications fixed by or in accordance with the regulations of the commission. The municipality is hereby granted the power to enforce such bond by all appropriate legal and equitable remedies. All such regulations shall be published as provided by law for the publication of ordinances, and before adoption, a public hearing shall be held thereon. A copy thereof



shall be certified by the commission to the recorders of the counties in which the municipality and territory be located.

**Section 15.—PROCEDURE: LEGAL EFFECT OF APPROVAL OF PLAT.** The planning commission shall approve or disapprove a plat within 30 days after the submission thereof to it; otherwise such plat shall be deemed to have been approved, and a certificate to that effect shall be issued by the commission on demand: Provided, however, that the applicant for the commission's approval may waive this requirement and consent to an extension of such period. The ground of disapproval of any plat shall be stated upon the records of the commission. Any plat submitted to the commission shall contain the name and address of a person to whom notice of a hearing shall be sent; and no plat shall be acted on by the commission without affording a hearing thereon. Notice shall be sent to the said address by registered mail of the time and place of such hearing not less than five days before the date fixed therefor. Similar notice shall be mailed to the owners of land immediately adjoining the platted land, as their names appear upon the plats in the county auditor's office and their addresses appear in the directory of the municipality or on the tax records of the municipality or county. Every plat approved by the commission shall, by virtue of such approval, be deemed to be an amendment of or an addition to or a detail of the municipal plan and a part thereof. Approval of a plat shall not be deemed to constitute or effect an acceptance by the public of any street or other open space shown upon the plat. The planning commission may, from time to time, recommend to council amendments of the zoning ordinance or map or additions thereto to conform to the commission's recommendations for the zoning regulation of the territory comprised within approved subdivisions. The commission shall have the power to agree with the application upon use, height, area or bulk requirements or restrictions governing buildings and premises within the subdivision, provided such requirements or restrictions do not authorize the violation of the then effective zoning ordinance of the municipality. Such requirements or restrictions shall be stated upon the plat prior to the approval and recording thereof and shall have the same force of law and be enforceable in the same manner and with the same sanctions and penalties and subject to the same power of amendment or repeal as though set out as a part of the zoning ordinance or map of the municipality.

**Section 16.—PENALTIES FOR TRANSFERRING LOTS IN UNAPPROVED SUBDIVISIONS.** Whoever, being the owner or agent of the owner of any land located within a subdivision, transfers or sells or agrees to sell or negotiates to sell any land by reference to or exhibition of or by other use of a plat of a subdivision, before such plat has been approved by the planning commission

and recorded or filed in the office of the appropriate county recorder, shall forfeit and pay a penalty of \$100 for each lot or parcel so transferred or sold or agreed or negotiated to be sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. The municipal corporation may enjoin such transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction or may recover the same penalty by a civil action in any court of competent jurisdiction.

**Section 17.—COUNTY RECORDER'S DUTIES.** A county recorder who files or records a plat of a subdivision without the approval of the planning commission as required by law shall be deemed guilty of a misdemeanor and shall be fined not less than \$100 nor more than \$500.00.

**Section 18.—IMPROVEMENTS IN UNAPPROVED STREETS.** The municipality shall not accept, lay out, open, improve, grade, pave, curb, or light any street, or lay or authorize water mains or sewers or connection to be laid in any street, within any portion of territory for which the planning commission shall have adopted a major street plan, unless such street (a) shall have been accepted or opened as or shall otherwise have received the legal status of a public street prior to the adoption of such plan, or unless such street (b) corresponds with a street shown on the official master plan or with a street on a subdivision plat approved by the planning commission or with a street on a street plat made by and adopted by the commission. Council may, however, accept any street not shown on or not corresponding with a street on the official master plan or on an approved subdivision plat or an approved street plat, provided the ordinance or other measure accepting such street be first submitted to the municipal planning commission for its approval and, if approved by the commission, be enacted or passed by not less than a majority of the entire membership of council or, if disapproved by the commission, be enacted or passed by not less than two-thirds of the entire membership of council. A street approved by the planning commission upon submission by council, or a street accepted by a two-thirds vote after disapproval by the planning commission shall thereupon have the status of an approved street as fully as though it had been originally shown on the official master plan or on a subdivision plat approved by the commission or had been originally platted by the commissions.

**Section 19.—ERECTIONS OF BUILDINGS.** From and after the time when a planning commission shall have adopted a major street plan of the territory within its subdivision jurisdiction or part thereof, no building shall be erected on any lot within such

territory or part, nor shall a building permit be issued therefor unless the street giving access to the lot upon which such building is proposed to be placed (a) shall have been accepted or opened as or shall otherwise have received the legal status of a public street prior to that time, or unless such street (b) corresponds with a street shown on the official master plan or with a street on a subdivision plat approved by the planning commission or with a street on a street plat made by and adopted by the commission or with a street accepted by council, after submission to the planning commission, by the favorable vote required in section 18 of this act. Any building erected in violation of this section shall be deemed an unlawful structure, and the building inspector or other appropriate official may cause it to be vacated and have it removed.

**Section 20.—STATUS OF EXISTING PLATTING STATUTES.** From and after the time when a planning commission shall have control over subdivisions as provided in section 13 of this act, the jurisdiction of the planning commission over plats shall be exclusive within the territory under its jurisdiction, and all statutory control over plats or subdivisions of land granted by other statutes shall in so far as in harmony with the provisions of this act be deemed transferred to the planning commission of such municipality, and, in so far as inconsistent with the provisions of this act, are hereby repealed.

### **TITLE III.—BUILDINGS IN MAPPED STREETS—**

**Section 21.—RESERVATION OF LOCATIONS OF MAPPED STREETS FOR FUTURE PUBLIC ACQUISITION.** Any municipal planning commission is empowered, after it shall have adopted a major street plan of the territory within its subdivision jurisdiction or of any major section or district thereof, to make or cause to be made, from time to time, surveys for the exact location of the lines of a street or streets in any portion of such territory and to make a plat of the area or district thus surveyed, showing the land which it recommends be reserved for future acquisition for public streets. The commission, before adopting any such plat, shall hold a public hearing thereon, notice of the time and place of which, with the general description of the district or area covered by the plat, shall be given not less than 10 days previous to the time fixed therefor by one publication in a newspaper of general circulation in the municipality if the district or area be within the municipality, or of general circulation in the county if the district or area be outside of the municipality. After such a hearing the commission may transmit the plat, as originally made or modified as may be determined by the commission, to council, together with the commission's estimate of the time or times within which the lands shown on the plat as street locations should be acquired by the municipality. Thereupon by resolution council may approve

and adopt or may reject such plat or may modify it with the approval of the planning commission, or, in the event of the planning commission's disapproval, council may, by a favorable vote of not less than two-thirds of its entire membership, modify such plat and adopt the modified plat. In the resolution of adoption of a plat council shall fix the period of time for which the street locations shown upon the plat shall be deemed reserved for future taking or acquisitions for public use. Upon such adoption the clerk of council shall transmit one attested copy of the plat to the county recorder of each county in which the platted land is located and retain one copy for the purpose of public examination and hearings of claims for compensation. Such approval and adoption of a plat shall not, however, be deemed the opening or establishment of any street, nor the taking of any land for street purposes, nor for public use, nor as a public improvement, but solely as a reservation of the street locations shown thereon, for the period specified in the council resolution, for future taking or acquisition for public use. The commission may, at any time, negotiate for or secure from the owner or owners of any such lands releases of claims for damages or compensation for such reservations or agreements indemnifying the municipality from such claims by others, which releases or agreements shall be binding upon the owner or owners executing the same and their successors in title. At any time after the filing of a plat with the county recorder, and during the period specified for the reservation, the planning commission and the owner of any land containing a reserved street location may agree upon a modification of the location of the lines of the proposed street, such agreement to include a release by said owner of any claim for compensation or damages by reason of such modification; and thereupon the commission may make a plat corresponding to the said modification and transmit same to council; and if such modified plat be approved by council, the clerk of council shall transmit an attested copy thereof to the said county recorder or recorders, and said modified plat shall take the place of the original plat. At any time council may, by resolution, abandon any reservation and shall certify any such abandonment to the said county recorder or recorders.

**Section 22.—COMPENSATION FOR SUCH RESERVATIONS.** In the resolution of adoption of a plat council shall appoint a board of three appraisers and shall fix the time and place of meetings for hearings by said board upon the amounts of compensation to be paid for such reservations. Thereupon the clerk of council shall publish in at least two newspapers of general circulation in the municipality once a week for four consecutive weeks a notice which shall contain a general description of the land thus reserved, as shown on the plat, the provisions of the resolutions of council including the period of time for which such

reservations are made, the time within which claims for compensation may be filed; which shall be not less than three months nor more than six months, from the date of the notice, and the time and place of hearings by the board of appraisers. The first hearing shall not be set earlier than 30 days after the date of the first of such publications. Such notice shall also be posted in at least three public places in the neighborhood of or along the line of the location of the reservation. The board of appraisers shall fix the amounts of compensation to be paid, respectively, to the owners of the lands reserved for the period of time as shown on the plat, and in the resolution adopted by council. Whenever the clerk of council receives, within the period fixed for the same, any claim for such compensation, he shall transmit it to the board of appraisers. At the time and place fixed for such hearings the board of appraisers shall hear and consider all claims presented to it in writing or in person, including all evidence which may be presented by the claimants or other persons. The Board of appraisers shall have the right on its own initiative to investigate and ascertain data or evidence relevant to the question of such compensation. In case of the abandonment of a reservation prior to the time fixed for payment of compensation, the municipality shall be liable to the owner of the land included within the abandoned reservation for the expenses, if any, incurred by such owner by reason of such reservation.

**Section 23.—REPORT OF APPRAISERS AND COUNCIL'S ACTION.** The board of appraisers shall, within 90 days after the time fixed for the filing of claims, file its tentative report with the clerk of council, setting forth its findings as to the amounts of compensation to be paid the respective owners of the lands included within the lines of such reservations as located on the approved plat. Thereupon the clerk of council shall publish once a week for two consecutive weeks in at least two newspapers of general circulation in the municipality the fact of the filing of the report of the appraisers and specify a period of 30 days from and after the date of the first such publication within which objections to the report may be filed with the clerk of council. If objections be filed within said period, then the clerk of council shall cause the board of appraisers to hold a meeting, at which said objections shall be transmitted to the board, and the board may modify its report. The report in its original form or, if modified, in its modified form, shall be transmitted to council by its clerk. Before passing on the report, council may return it to the board of appraisers for reconsideration, and the board may upon further consideration transmit its former or a modified report to council. Council may approve or disapprove the report. If the report be approved by council, council shall provide for the payment of amounts of compensation set forth in the report within 90 days after the filing

of the report with council. In the case of those property owners who file claims payments shall be made through the clerk of council, who shall notify the claimants at the addresses given upon the claims filed with him. Payments to all other persons shall be made through the clerk of the court of common pleas of the county in which the reserved location is situated, by the payment to said clerk of the amounts awarded to such persons; notice of distribution to such persons to be given and made as may be provided by a rule or order of said court. Payments made as aforesaid to the clerk of council or clerk of said court within said 90 days shall be deemed compliance with the above requirements for payment within 90 days. If council disapprove the report or fail to provide for such payment within said 90 days, such disapproval or failure shall be deemed a dismissal of the proceedings and a cancellation of the plat and an abandonment of the reservations of the street locations as shown on the plat, with the same liability of the municipality for expenses as above provided in the case of abandonment by resolution; and thereupon the clerk of council shall cause to be transmitted to the recorder of the county an attested statement of such abandonment.

**Section 24.—APPEAL FROM COMPENSATION AWARDS.** Within 20 days after the approval of any such report by council, any person dissatisfied with the award of compensation therein contained may file with the clerk of council notice of appeal to a court of the county in which the appellants land is located having jurisdiction of actions by municipalities to assess compensation for property taken or appropriated for public use for streets. Thereupon, and within 10 days of such notice, the clerk of council shall file with the clerk of said court the report of the board of appraisers approved by council, together with certified copies of the resolution of council and of the notice of appeal. Within five days thereafter the appellant shall give and file with the clerk of said court an appeal bond, running to the municipality and for such amount as may be fixed by the court, to secure the municipality against the costs of the appeal case in the event that appellant fails to obtain an award of compensation greater than that fixed in the said report. Thereupon said appeal case shall be deemed to be filed and pending as a case brought by the municipality to appropriate and assess the compensation to be paid for the reservation of the land of the appellant as shown on the approved plat for the period fixed in the resolution of council, and the procedure shall be in accordance with the procedure specified by law in the proceedings for the taking or appropriation of property for public use for streets; and the municipality shall pay the appellant the amount fixed in said case, or, in case it abandons the reservations, the amount fixed in said case, amount of costs and expenses incurred by the appellant in said case.

**Section 25.—COMPENSATION FOR BUILDING IN RESERVED STREET LOCATIONS.** The reservation of a street location, as provided in section 21 of this act, shall not be deemed to prohibit or impair in any respect the use of the reserved land by the owner or occupant thereof for any lawful purpose, including the erection of buildings thereon; but no compensation, other than the compensation awarded in the final report of said board of appraisers as approved by council as provided in section 23 of this act or, in the case of an appeal, as awarded on such appeal as provided in section 24 of this act, shall at any time be paid by the municipality or public to or recovered from the municipality or public by any person for the taking of or injury to any building or structure built or erected within the period fixed in the resolution of council upon any such reserved location. No compensation or damages for any such reservation shall be paid or recovered except as provided in sections 22, 23, and 24 of this act.

**TITLE IV.—REGIONAL PLANNING AND PLANNING COMMISSIONS—**

**Section 26.—CREATION OF COMMISSION.** The planning commission of any municipality or the county commissioners of any county or any 100 citizens, by signed petition, may apply to the governor for the establishment of a region for planning purposes and the appointment of a regional planning commission for such region. The governor shall hold at least one public hearing upon any such application or petition, the time and place of which he shall officially proclaim. If the governor find that, by reason of urban growth and development not corresponding to existing municipal boundary lines or by reason of other developments or trends in the growth and distribution of population, commerce, and industry, or by reason of topographic or other conditions, two or more separate municipalities or the territory of one or more municipalities and neighboring nonmunicipal territory have overlapping and interrelated or common problems of such nature as not to be capable of intelligent, economical, and adequate solution by means of the separate planning of each separate political unit and require, for such solution, a general plan of the physical development of the entire area of such municipalities or territories as a whole, and that, consequently, it is to the public interest that a region be established for planning purposes, he shall grant the application and shall define the boundaries of such region and appoint a regional planning commission. Such commission shall consist of nine persons. Member shall be appointed for six years, except that the respective terms of seven of the members first appointed shall be one year, two years, two years, three years, four years, four years, and five years, Provided, however, That if at the time of his appointment, the appointee is a public officer or in the public

service of the State or any of its political subdivisions, and his incumbency as such public officer or servant expires previous to the term for which he is appointed on the regional planning commission, then his term on the commission shall terminate with the expiration of his incumbency as such public officer or servant, unless it be extended by the governor, in which case such extension shall be for the remainder of the term for which he was originally appointed. The members shall serve without compensation but shall be paid their necessary expenses incurred in the performance of their duties. They may, after a public hearing, be removed by the governor for inefficiency, neglect of duty, or malfeasance in office, and he shall file a written statement of his reasons therefor. Vacancies shall be filled by the governor for the unexpired term.

**Section 27.—ORGANIZATION OF COMMISSION.** Except as otherwise provided in this act, the provisions of this act relative to organization, rules, staff, finances, procedure, and miscellaneous powers and duties of municipal planning commission shall, so far as applicable, apply to regional planning commissions. The amount which a regional planning commission may expend in any year shall be such as may be determined by said regional planning commission, subject to approval by the governor, who shall fix the proportion of such expenditure to be borne by the respective municipalities, counties, and other taxing districts and political subdivisions within the region. The council of each such municipality, the county commissioners of each such county, and the appropriating body of each such taxing district or political subdivision within the region are hereby authorized to appropriate their respective shares of such expenditures. The sums so appropriated shall be paid into the State treasury and shall be paid out on certificate of the regional planning commission.

**Section 28.—POWERS AND DUTIES.** Any regional planning commission is hereby authorized and empowered to make, adopt, amend, extend, and add to a master regional plan for the physical development of its region. Such plan shall be based on comprehensive studies of the present and future development of the region, with due regard to its relation to neighboring regions and the State as a whole and to neighboring States. Such plan, including maps, charts, diagrams, and descriptive matter, shall show the commission's recommendations for the physical development of the region and may include among other things the general location, extent and character of streets, parks and other public ways, grounds and open spaces, public buildings, and properties and public utilities (whether publicly or privately owned or operated) which affect the development of the region as a whole or which affect more than one political subdivision of the State within the region; also, the general location of forests, agricultural and



open development areas for purposes of conservation, food and water supply, sanitary and drainage facilities, or the protection of future urban development; also, a zoning plan for the control of the height and area, or bulk, location, and use of buildings and premises, and of the density of population. Such master plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the region and of public improvements and utilities which do not begin and terminate within the boundaries of any single municipality or which do not relate exclusively to the development of any single municipality, and which will, in accordance with the present and future needs of the region and the State, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development.

**Section 29.—CERTIFICATION OF THE REGIONAL PLAN.**

The regional planning commission, after adopting the regional plan, shall certify a copy thereof to the governor, to the planning commission of each municipality within the region, to the council of each municipality not having a planning commission, to the county commissioners of each county wholly or partly included in the region, and to other organized taxing districts or political subdivisions wholly or partly included in the region.

**Section 30. — ADOPTION OF REGIONAL PLAN BY MUNICIPALITIES.** Such plan may be adopted by the municipal planning commission of any municipality within the region to which it is certified by the regional planning commission. Such adoption shall be in accordance with the procedure specified in this act for the adoption of plans by municipal planning commissions. When thus adopted, it shall thereupon have the force and effect within such municipality as is provided in this act for plans made and adopted by municipal planning commissions and shall be deemed an original municipal plan or an amendment of or addition to the municipal plan. Before adopting any amendment of the municipal plan which would constitute a violation of or departure from the regional plan certified to the municipal planning commission by the regional planning commission, the municipal planning commission shall submit such proposed amendment to the regional planning commission, which latter commission shall certify to the municipal commission its approval, disapproval, or other opinion concerning the proposed amendment.

**Section 31.—LEGAL STATUS OF REGIONAL PLAN.**

After the adoption of the regional plan by the regional planning commission, no street, park or other public way, ground or open space, no public building or other public structure, and no public utility, whether publicly or privately owned or operated, shall be constructed or authorized in non-municipal territory

within the region until the location, character, and extent thereof shall have been submitted to and approved by the regional planning commission of the region. This prohibition shall not be interpreted as requiring the approval by the regional planning commission of any subdivision falling within the subdivision jurisdiction of a municipal planning commission, as defined in sections 12 and 13 of this act, and duly approved by such municipal planning commission as provided in section 15 of this act. In case of disapproval by the regional planning commission, such disapproval may be over-ruled by the board, commission, body, or officer in which or in whom the power to finally determine such location, character, and extent is reposed by law, by a vote, in the case of any such board, commission, or body, of not less than two-thirds of its membership. A statement of its or his reason for any such overruling shall be spread upon the minutes or records of the board, commission, body, or officer.

#### TITLE V.—MISCELLANEOUS PROVISIONS.

Section 32.—SAVING CLAUSE. The invalidity of any provision of this act shall not affect the validity of any other provision.

Section 33.—REPEAL. All laws and parts of laws in conflict herewith are hereby repealed.

Section 34.—TIME OF TAKING EFFECT. This act to take effect upon being signed by Governor.

Approved September 14, 1935.

No. 535)

(H. 1006—Staples.

#### AN ACT

To amend Schedule 158.1 of an act entitled an act to provide for general revenue of the State of Alabama to read as follows: approved July 10, 1935.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Schedule 158.1 of an act entitled an act to provide for general revenue of the State of Alabama and approved July 10, 1935, is hereby amended to read as follows:

Section 2. SCHEDULE 158.1 "PRIVATE CARS": The following license and registration fee shall be charged on automobiles and motor cars kept for private use: (a) For each automobile or motor car weighing 2000 pounds or less, Five Dollars (\$5.00). (b) For such automobile or motor car weighing more than 2000 pounds and not exceeding 2500 pounds the license shall be Nine Dollars (\$9.00). (c) For each automobile or motor car weighing in excess of 2500 pounds and not more

than 3250 pounds, the license shall be \$13.00. (d) For each automobile or motor car weighing in excess of 3250 pounds, the license shall be Eighteen Dollars (\$18.00). Provided, however, that for new automobiles only these licenses shall be purchased on a monthly declining basis of one-twelfth ( $1/12$ ) or for each month of the tax year and that the purchaser shall only buy a license for the then remaining months of the tax year. In figuring the license on a one-twelfth ( $1/12$ ) reduction for each month, the amount of any fraction shall be figured to the nearest ten (10c) cents above the fraction thereof. But in no event shall the price of license tag be less than two dollars (\$2.00). (aa) Provided, the word "Weight" for purpose of computing the license tax payable hereunder, shall be deemed to mean the weight of the vehicle including weight of the bumpers, spare tires, horn, trunk and tools, and all equipment customarily or generally used, whether same be installed on the motor vehicle before shipment or delivery by the factory, or before or after delivery by the automobile dealer. (e) For each electric automobile, other than truck, Twelve Dollars (\$12.00). (f) For each automobile propelled by steam, Eighteen Dollars (\$18.00). (g) For each motorcycle, Four Dollars (\$4.00). (h) For each motorcycle with side car attached, Five Dollars (\$5.00). Where the motorcycle is acquired or brought into the State on or after January 1st, or is not used prior to January 1st, the license shall be Three Dollars (\$3.00). Where the motorcycle is acquired or brought into the State on or after April 1st, or is not used prior to April 1st, the license shall be Two Dollars and a half (\$2.50). Where the motorcycle is acquired or brought into the State on or after July 1st, or is not used prior to July 1st, the license shall be Two Dollars (\$2.00). (bb) Provided, However, that the license tags for such automobile or motorcycle shall remain with such automobile or motorcycle for the remainder of the current tax year, and that before any private automobile or any motorcycle shall be used on any public highway the proper license tag therefor must be procured and securely attached to the rear end of the automobile or motorcycle, said tag to be securely attached right side up with the number thereof in an upright position and the numbers thereof plainly visible.

Approved September 21, 1935.

No. 536)

(H. 1044—Propst.

## AN ACT

To define "Hospital Executives" and to provide for registration of the same.

*Be it enacted by the Legislature of Alabama:*

Sec. 1. That the term "Hospital Executive" as used in this act shall mean any person having active charge of the management and general supervision of any hospital in the State of Alabama.

Sec. 2 Any hospital executive in the State of Alabama upon the presentation to the State Treasurer of a certificate of the Alabama Association of Hospital Executives certifying that said hospital executive is a qualified hospital executive, and the payment of \$5.00, the State Treasurer shall issue to said hospital executive a certificate as follows: "The executive of this hospital has met all requirements of the Alabama Association of Hospital Executives and is hereby registered with the State of Alabama as a qualified hospital executive."

Sec. 3. Every hospital executive receiving a certificate of qualification from the Alabama Association of Hospital Executives and being registered with the State Treasurer as herein provided, shall prior to the first day of October of each year thereafter pay into the State Treasury as a license fee the sum of \$5.00, which shall remain in the State Treasury as part of the general funds, and upon the payment of said \$5.00 the State Treasurer shall issue a certificate to said hospital executive as provided in Sec. 2 hereof.

Sec. 4. This act shall take effect immediately on its approval by the Governor.

Approved September 14, 1935.

No. 537)

(H. 1052—Parish (Henry)

## AN ACT

To Amend the Code of Laws for the State of Alabama, known as the "Agricultural Code of Alabama", of 1927, adopted as the Code of Laws for the State of Alabama, prepared in accordance with the provisions of the Act approved February 18, 1927, (H. 275 Goode) by the Act of the Legislature approved August 24, 1927, which pertains to Agriculture and Industries, the Department of Agriculture and Industries, the Commissioner of Agriculture and Industries and the State Board of Agriculture, and relating subjects, as follows: Amend Sections 149 and 153, of Article 17 pertaining to fertilizers, and providing for the repeal of laws and parts of laws in conflict with this Act and the effective date of the same.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 149 of Article 17 of the "Agricultural Code of Alabama", of 1927, be and the same is hereby amended to

read as follows: Section 149. COMMISSIONER NOTIFIED OF SHIPMENTS.—It shall be the duty of persons shipping fertilizer or fertilizer material to notify the Commissioner in writing by mail or otherwise on the day of shipment, or within twenty-four hours thereafter of every shipment exceeding five tons and to notify the Commissioner of all shipments of five tons or less in accordance with regulations to be adopted by the State Board of Agriculture. Such notice shall state the brand name, number of sacks, the net weight of each sack or package, the guaranteed analysis, and to whom shipped and their address.

Section 2. That Section 153 of Article 17 of the "Agricultural Code of Alabama", of 1927, be and the same is hereby amended to read as follows: Section 153. COMPLETE FERTILIZER STANDARD.—The State Board of Agriculture is authorized, from time to time, to establish standards of classification for fertilizer or fertilizer material according to grade by which its quality, condition or fertilizing value may be judged, to alter or modify such standards as they may find necessary, and to make such investigation as may be required for such purpose. No complete fertilizer, acid phosphate with potash, nitrogen with acid phosphate, or plain acid phosphate, shall be sold in this State which contains less than sixteen per cent plant food; namely, nitrogen, available phosphoric acid and potash, either singly or in combination; provided, that no complete fertilizer or nitrogen with acid phosphate, shall be sold in this State which contains less than three and no one-hundredths (3.00%) per cent of nitrogen.

Section 3. CONSTRUCTION.—That if any provision of this Act or the application thereof to any person or circumstance shall be held by any court to be unconstitutional, such holding shall not affect any other provision of this Act, or the application of such provision to other persons or circumstances, it being the intent and purpose hereof that each provision hereof shall stand or fall on its own merits and that judicial annulment of any provision hereof shall have no effect upon any other provision not so annulled.

Section 4. REPEAL OF CONFLICTING LAWS.—That all laws and parts of laws, general, special or private, in conflict with the terms and provisions of this Act are hereby repealed.

Section 5. EFFECTIVE DATE.—This Act shall take effect and become operative immediately upon its passage and approval by the Governor.

Approved September 14, 1935.

No. 538)

(H. 1055—Staples

## AN ACT

To provide that in all counties in the State of Alabama having a population of One Hundred and Ten Thousand (110,000) and not more than Two Hundred Thousand (200,000) according to the last or any subsequent Federal Census that in all misdemeanor cases that a solicitor's fees as now are hereafter fixed by law may be charged as court cost in the discretion of the Judge trying the case.

*Be it enacted by the Legislature of Alabama:*

Section 1. That in all counties in the State of Alabama having a population of One Hundred and Ten Thousand (110,000) and not more than Two Hundred Thousand (200,000) according to the last or any subsequent Federal Census that in all misdemeanor cases that a solicitor's fees as now or hereafter fixed by law may be charged as Court cost in the discretion of the Judge trying the case.

Section 2. That all laws or parts of laws in conflict herewith are hereby expressly repealed.

Section 3. This Act shall take effect upon its passage and approval of the Governor.

Approved September 14, 1935.

No. 539)

(HJR—413—Chichester.

## HOUSE JOINT RESOLUTION

WHEREAS, in accordance with the suggestions of the coordinator of Railroads, Mr. Joseph B. Eastman, a study is now being made by officials of railroads entering and doing business in Alabama, for the purpose of consolidating and jointly operating the terminal facilities and other properties of said railroads; and

WHEREAS, said consolidation and combined operation of railroads doing business in Alabama will ultimately retire parallel lines, merge railroad facilities, stifle competition and seriously multiply unemployment throughout the whole State: and

WHEREAS, thousands of faithful railroad employees throughout the State, who have devoted their lives to railroad service, will be thrown out of employment, lose their homes and be forced on charity or Governmental Relief, contrary to the Government policy of decreasing instead of increasing unemployment; and

WHEREAS, the resulting decrease in wages of railroad employees will deprive merchants, growers and other business interests throughout the State of several millions of dollars annually; and

WHEREAS, said elimination of railroad facilities will seriously interfere with railroad services in local communities throughout the State; and

WHEREAS, It is a matter of common knowledge that the State of Alabama, particularly the Birmingham industrial district has suffered to a considerably greater degree during the recent economic depression than other sections of the Country, and realize that such a consolidation of railroad facilities will materially affect the revenues of the State, Counties, Municipalities, and School Districts as to a general reduction in property values;

NOW THEREFORE, BE IT RESOLVED, that the House and Senate of the Alabama Legislature do hereby record themselves as opposed to the elimination of railroad facilities in this State and do hereby urge the Senators and Congressmen from Alabama to use their influence with the Coordinator of Railroads, and with the President of the United States, to prevent the said consolidation of railroad facilities in Alabama;

BE IT FURTHER RESOLVED, that copies of this Resolution be forwarded to both Senators and all Congressmen from Alabama, to Mr. Joseph B. Eastman, Coordinator of Railroads, and to Franklin D. Roosevelt, President of the United States.

Approved September 14, 1935.

No. 540)

(H. 369—Wallace.

### AN ACT

Relating To, Regulating And Requiring A Pre-Qualification And Classification Of Bidders On Public Improvements.

*Be it enacted by the Legislature of Alabama:*

Section 1. Before entering into any contract for a public improvement, the awarding authority shall advertise for bids for two consecutive weeks in a newspaper of general circulation in the county or counties in which the improvement or undertaking, or some part thereof, is to be made; the awarding authority may also advertise in such other publication as it may deem advisable. Such notices shall state that plans and specifications for the improvement are on file in the office of the authority, and the time in which the bids therefor will be received.

Section 2. Proposal, plans and specifications may be obtained only upon payment of a fee of not less than ten dollars, which shall be collected by the awarding authority for each proposal, plan, or specification furnished.

Section 3. The bidder shall be required to file with his bid a certified check for an amount equal to five percent of the

estimated cost, but in no event more than ten thousand dollars, payable to the State of Alabama, which check shall be forthwith returned in case the contract is awarded to another bidder; or in case of the successful bidder, when he has entered into a contract or furnished the contract bond as required by law. No bidder shall be required to file a signed contract with his bid, or to enter into a contract or furnish the contract bond required by this Act, until the bids have been opened and he is notified by the awarding authority that he has been awarded the contract.

Section 4. The awarding authority shall require all bidders to furnish the awarding authority a statement under oath on such forms as the authority may prescribe, detailed information with respect to their financial resources, equipment, past record, personnel of organization and experience, together with such other information as to the awarding authority may seem necessary for the purpose of carrying out the provisions of this Act.

Section 5. The awarding authority shall award the contract to the lowest competent and responsible bidder or bidders qualified to bid in accordance with the terms of this Act. Should the successful bidder or bidders to whom the contract is awarded fail to enter into such contract and furnish satisfactory bond as required by law within a period of ten days from and after award of same, his or their certified check shall be forfeited to the State of Alabama and the same shall be the property of the State, and shall be deposited in the State Treasury. All other certified checks shall within ten days after the date of the award of said contract, be returned to the bidders who submitted the same; provided, however, that the certified check of the second and third lowest responsible bidder may be withheld until the contract has been finally executed. If, in the opinion of the awarding authority it is for the best interests of the State, on the refusal or failure of the successful bidder to execute the contract, said awarding authority may, in his or its discretion, award the same to the second lowest responsible bidder. If the second lowest responsible bidder fails or refuses to execute such contract, the said awarding authority may likewise award the same to the third lowest responsible bidder. On the failure or refusal of the second or third lowest bidder, to whom any such contract is so awarded, to execute the same, such bidder's certified check shall likewise be forfeited to the State; provided, that in the event that such contract should not be executed or no said contractor's bond provided by any bidder to whom award is made within the time required, and there appear circumstances which are deemed to warrant an extension of time, the awarding authority may extend the time for execu-



tion of the contract or furnishing of satisfactory contractor's bond for a period not to exceed ten days additional. If in the opinion of the awarding authority the acceptance of the lowest responsible bid or bids shall not be for the best interests of the State, it shall be lawful for him or it to reject all bids and advertise for others in the manner aforesaid. But at any time after the approval of the plans, specifications and estimates of cost by the awarding authority if, in the opinion of said awarding authority the advertising or award of a contract under the provisions of this Act, or the acceptance of any bid or bids shall not be for the best interests of the State, or if in the opinion of said awarding authority the acceptance of any further bids after the rejection of all bids submitted shall not be for the best interests of the State, he or it may direct that the said work shall be done by day's labor, under the direction and control of the awarding authority. Upon the approval of the awarding authority the duly authorized officer or officers of the awarding authority may, when proceeding upon the basis of day's labor, let any subdivision or unit of said work by contract upon informal bids.

Section 6. Any bidder desiring to submit a bid for the performance of any contract or contracts which the awarding authority proposes to let, shall apply to the awarding authority for qualifications and shall use for that purpose the form prescribed and furnished by the awarding authority. The awarding authority shall be required to act promptly upon the application for qualification and must act thereon within thirty days after the same is presented to him or it. Upon the receipt of any application for qualification, the awarding authority shall cause the same to be examined and the statements therein to be verified, and shall thereupon determine whether the applicant is competent, responsible and possesses the financial resources which satisfy the terms of this Act. If the applicant is found to possess the qualifications prescribed by this Act and by the rules and regulations promulgated by the awarding authority, the awarding authority shall issue to him a certificate of qualification, which shall be valid for a period of one year or such shorter period of time as the awarding authority may prescribe, unless thereafter revoked by the awarding authority for cause as hereinafter provided. The certificate of qualification shall contain a statement fixing the actual amount of work in terms of estimated cost, which the applicant will be permitted to have on contract with the awarding authority and not completed, at any one time, and may also, in the discretion of the awarding authority, contain a statement limiting such bidder to the submission of bids upon a certain class or classes

of work, subject to any restrictions as to amount or class of work therein contained, such certificate of qualification shall authorize the holder to bid on all work on which bids are taken by the awarding authority during the period of time therein specified.

Section 7. A certificate of qualification may be revoked by the awarding authority only after notice to the qualified bidder and an opportunity to be heard. The notice shall be in writing and shall state the grounds of the proposed revocation, and may be served by any Sheriff of the State of Alabama or by registered mail, as the awarding authority shall direct. Any qualified bidder aggrieved by the decision of the awarding authority upon the matter revoking his certificate may appeal from such decision to the Circuit Court of Montgomery County, Alabama, in the manner hereinafter provided.

Section 8. No bidder shall be given a certificate of qualification unless his financial statement and the investigation made by the awarding authority shall show that he possesses net current assets or working capital sufficient in the judgment of the awarding authority to render it probable that he can satisfactorily execute his contracts and meet his obligations therein incurred, which net current assets or working capital shall in no case be less than ten percent of the actual amount of work set forth in his certificate of qualification. All applicants for qualifications shall expressly authorize the awarding authority to obtain all the information which he or it may deem pertinent with respect to the financial worth and assets and liabilities of the applicant, from banks or other financial institutions, surety companies, dealers in materials, equipment or supplies, or other persons having business transactions with any applicant, and shall expressly authorize all such financial institutions or other persons to furnish any such information requested from them by the awarding authority. All information filed with or furnished to the awarding authority by applicants or other persons in connection with the administration of this Act, shall be kept in confidence by the awarding authority and shall not be revealed to any person, except upon proper subpoena or order of a court of competent jurisdiction. The awarding authority, or its or his representative, shall have access to the books and accounts and financial records of all applicants, unless the financial statement furnished by any applicant is prepared and attested as correct by a certified Public Accountant recognized and licensed by the Alabama State Board of Public Accountancy. All applications shall be accompanied by satisfactory evidence that the applicant has complied with the Workmen's Compensation Law and is not in default in the

payment of any sum due from him under the provisions of such law. Where the applicant is a foreign corporation, the application shall be accompanied by a certificate of the Secretary of State that such corporation is authorized to do business in this State. The awarding authority may require all qualified bidders to file financial statements from time to time, at such intervals as he or it may prescribe. This Act shall be administered without reference to the residence of applicants and its provisions and the rules and regulations of the awarding authority, adopted pursuant thereto, shall apply equally to residents and non-residents of the State of Alabama. This Act shall not apply to the purchase of material, equipment or supplies.

Section 9. For the purpose of carrying into effect the terms of this Act and insuring to the State and public the award of all contracts to competent and responsible bidders, the awarding authority shall be empowered to prepare and promulgate such rules and regulations, not inconsistent with the terms of this Act, as he or it may deem proper. Such rules and regulations may cover the requirements of the awarding authority with respect to equipment, past record and experience of applicant, personnel of organization and such other matters as the awarding authority may deem necessary to enable him or it to pass upon the qualifications of applicants. The awarding authority may, in his or its discretion, make public from time to time a list of qualified bidders, but such list shall be general in character and shall not indicate the size of contract or character of work with respect to which such bidders have been qualified.

Section 10. It shall be unlawful for any successful bidder to enter into a sub-contract with any other person involving the performance of any part of the work upon which such bidder may be engaged for the State or the awarding authority, unless the sub-contractor has been properly qualified under the terms of this Act for the work sublet to him.

Section 11. All applicants for qualifications shall be promptly notified by the awarding authority of his or its final action upon their applications. Any applicant aggrieved by the decision of the awarding authority may, within ten days after receiving notice of such decision, request in writing a reconsideration of his application by the awarding authority and may submit additional evidence bearing upon his qualifications. The awarding authority shall thereupon again consider the matter and may either adhere to or modify his or its previous decision. The awarding authority shall act upon any request for reconsideration within fifteen days after the filing thereof, and shall forth-

with notify the applicant of the action taken. Upon being notified of the final action of the awarding authority upon such reconsideration, the applicant who is still aggrieved by the decision of the awarding authority may, within ten days after receiving notification of such decision, take an appeal therefrom to the Circuit Court of Montgomery County, Alabama. Such appeal shall be perfected by the filing of a bond with the Clerk of said Court in such amount as the Clerk may fix, conditioned upon the payment by the Appellant of the cost of the appeal in case the decision of the awarding authority shall be sustained. An issue shall be made up under the direction of the court between the applicant and the awarding authority. The court shall hear the evidence offered by the Appellant and the awarding authority and decide the case without the intervention of a jury. If the court finds that there is no ground for the correction modification or reversal of the decision of the awarding authority, it shall dismiss the appeal; otherwise it shall make the order with respect to the qualification which it finds should have been made by the awarding authority, which order shall be binding upon the awarding authority. An appeal from such decision may be prosecuted to the Supreme Court of Alabama in the same way and manner that appeals in civil cases are now provided for. Any applicant who has been refused qualification, or who is dissatisfied with the awarding authority's decision as to the actual amount of work that he will be permitted to have under contract at any one time, or any limitation as to the class or classes of work on which he is authorized to bid, may at any time file a new application for qualification. Such new application shall be promptly considered and acted upon by the awarding authority.

Section 12. The awarding authority shall not be authorized to consider any bid filed with it or him by any person who has not been qualified under the terms of this Act. Bids from unqualified bidders discovered by the awarding authority prior to the reading thereof, to be from such person, shall be returned without being read. If the awarding authority finds, subsequent to the opening of the bids, that facts exist which would disqualify the lowest bidder, or that such bidder is not competent and responsible, the awarding authority shall reject such bid despite the fact of prior qualification of such bidder. It shall be unlawful to award any contract to any bidder not qualified to bid thereon at the time fixed for receiving bids.

Section 13. It shall be unlawful for any applicant for qualification to knowingly make a false statement with respect to his financial worth in any application for qualification, financial statement or other written instrument filed by him with the

awarding authority under the terms of this Act or the rules and regulations adopted pursuant thereto. Any person violating the provisions of this section shall, upon conviction, be fined not less than one hundred nor more than five hundred dollars, and shall be disqualified from submitting bids on contracts advertised for letting by the awarding authority for a period of two years following the date of his conviction.

Section 14. The term "person", in this Act shall include natural persons, partnerships and corporations. The term "awarding authority" shall include the State Highway Department, the State Highway Commission of Alabama, the Highway Director of Alabama, the Board of Administration of Alabama, and the Chairman of the Board of Administration of Alabama, and all the state agencies of the State of Alabama, but shall not include any county or municipal officer or board, they being expressly excluded from the operation of this Act. The term "public improvement" shall include public buildings, structures, sewers, water works, roads, bridges, underpasses and viaducts, as well as any other improvement to be repaired or constructed or maintained by the awarding authority.

Section 15. It shall be unlawful for the awarding authority or any servant, agent or employee, or any other person, to furnish or deliver any proposal relating to a public improvement to any person other than a duly qualified bidder, or his authorized representative. The name of the proposed bidder shall be inserted in the face of the proposal and such proposal shall not be transferable. No proposal shall be issued later than twentyfour hours before the hour set for the opening of bids. Any violation of the provisions of this Act shall constitute a misdemeanor and the person adjudged guilty shall be fined not more than five hundred dollars and imprisoned for not more than six months, one or both at the discretion of the court.

Section 16. Should any sentence, section or provision of this Act be held unconstitutional, such holding shall not affect the remainder of the Act not in itself unconstitutional.

Section 17. This Act shall take effect upon its approval by the Governor and all laws and parts of laws in conflict therewith are hereby specially repealed.

Approved September 14, 1935.

No. 541)

(H. 408—Davis.)

## AN ACT

To propose an amendment to Section 229 of the Constitution of Alabama to be known as Amendment Number 27, and to order an election by the qualified electors of the State of Alabama upon such proposed amendment to be held on the first Tuesday after the expiration of three months from and after the final adjournment of the present session of the Legislature, at which this amendment is proposed.

*Be it enacted by the Legislature of Alabama:*

Section 1. The following amendment to Section 229 of the Constitution of the State of Alabama to be known as Amendment Number 27 is hereby proposed, and an election is hereby ordered by the qualified electors of the State of Alabama upon the proposed amendment and the day hereby appointed for the said election is the first Tuesday after the expiration of three months from and after the final adjournment of the present session of the Legislature. The proposed amendment is as follows: "Section 229. The Legislature shall pass no special Act conferring corporate powers, but it shall pass general laws under which corporations may be organized and corporate powers obtained, subject, nevertheless, to repeal at the will of the Legislature; and shall pass general laws under which charters may be altered or amended. The Legislature shall, by general laws, provide for the payment to the State of Alabama of a Franchise Tax by corporations organized under the laws of this State which shall be in proportion to the amount of capital stock; but strictly benevolent, educational or religious corporations or Federal building and loan associations organized pursuant to an Act of Congress known as the Home Owners' Loan Act of 1933, as amended, and as the same may hereafter be amended, or building and loan associations organized under or authorized to do business by the laws of Alabama shall not be required to pay such a tax on their withdrawable or repurchasable shares. The charter of any corporation shall be subject to amendment, alteration, or repeal under general laws. Exemption of the shares of building and loan associations from franchise taxes heretofore provided by statute is ratified."

Section 2. Notice of the election hereby ordered, together with the amendment hereby proposed shall be given by proclamation of the Governor, which shall be published in one newspaper once a week in every county in the State for at least eight successive weeks, next preceding the day hereby appointed for such election.

Section 3. At the election hereby ordered to be held as herein provided, the qualified electors shall vote on such proposed amendment; and on the official ballot provided for such election, there shall be printed the following, viz: "Shall the following be adopt-

ed as an amendment to Section 229 of the Constitution of Alabama? 'Section 229. The Legislature shall pass no special Act conferring corporate powers, but it shall pass general laws under which corporations may be organized and corporate powers obtained, subject, nevertheless, to repeal at the will of the Legislature; and shall pass general laws under which charters may be altered or amended. The Legislature shall, by general laws, provide for the payment to the State of Alabama of a franchise tax by corporations organized under the laws of this State, which shall be in proportion to the amount of capital stock; but strictly benevolent, educational or religious corporations or Federal building and loan associations organized pursuant to an Act of Congress known as the Home Owners' Loan Act of 1933, as amended, and as the same may hereafter be amended, or building and loan associations organized under or authorized to do business by the laws of Alabama shall not be required to pay such a tax on their withdrawable or repurchasable shares. The charter of any corporation shall be subject to amendment, alteration, or repeal under general laws. Exemption of the shares of building and loan associations from franchise taxes heretofore provided by statute is ratified.' (Yes: —) (No: —)

Section 4. Officers to hold such election shall be the same and shall be appointed in the same manner and by the same officials as now provided by the election laws of the State for the appointment of officers to hold elections in this State and the election shall be held in all things in accordance with this Act, the law governing elections and the constitutional provisions concerning amendments to the Constitution.

Section 5. The votes cast at such election shall be canvassed, tabulated, and return thereof made to the Secretary of State, and counted in the same manner as in elections for Representatives to the Legislature; and if it shall appear that a majority of the qualified electors who voted at such election upon the proposed amendment voted in favor of the same, such Amendment shall be valid to all intents and purposes as a part of the Constitution of the State of Alabama. The result of such election shall be made known by a proclamation of the Governor.

Passed the House of Representatives September 13, 1935.

Passed the Senate September 13, 1935.

No. 542)

(H. 499—Byars.

## AN ACT

To submit to the qualified electors of Alabama an amendment to the Constitution of Alabama authorizing Lawrence County to increase its indebtedness in a sum not exceeding \$130,000 in addition to that now authorized, for the purpose of constructing and equipping a courthouse; authorizing the issuance and sale of bonds therefor; authorizing the levy and collection of taxes on all taxable property in Lawrence County at a rate not exceeding 3 mills to pay said indebtedness; to provide that said levy and collection of taxes for said purpose shall not be continued for a period of more than 25 years from the date of the levy thereof, And to further provide for the submission of said proposed amendment to the qualified electors of the State on the first Tuesday after the expiration of three (3) months from and after the final adjournment of the present session of the Legislature.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the following amendment to the Constitution of Alabama is hereby proposed by the Legislature for the consideration of the qualified electors of Alabama, namely; Lawrence County may become indebted and may issue bonds therefor in an amount not exceeding \$130,000 in addition to that now authorized, for the construction of and equipping of a courthouse in said county. To pay said indebtedness, and interest thereon, Lawrence County may levy and collect an annual tax on all property situated therein at a rate not in excess of 3 mills. The indebtedness, the bonds and the tax authorized hereby shall be in addition to those authorized prior to the adoption of this amendment. But no such additional indebtedness shall be incurred, no such bonds shall be issued and no such tax shall be levied until the estimated cost of the construction and equipping of said courthouse hereby proposed to be built, its time of completion, and the amount of the increased indebtedness, the rate of interest to be paid thereon, and the period over which the bonds to be issued will be refunded, shall have been determined upon and made public by the County Governing Body of said County; and the proposed increase in indebtedness and the issuance of bonds and the increase in rate of taxation first shall have been authorized by a majority of the qualified electors of said county voting upon such proposal at an election to be called by said county governing body for said purposes to be held not less than sixty (60) nor more than (120) One hundred twenty days after the adoption of this amendment.

Section 2. The day hereby appointed for the election upon such proposed amendment is the first Tuesday after the expiration of three (3) months from and after the final adjournment of the present session of the Legislature. On the official ballot provided for such election there shall be printed the following: Lawrence



County may become indebted and may issue bonds therefor in an amount not exceeding \$130,000 in addition to that now authorized, for the construction of and equipping of a courthouse in said county. To pay said indebtedness, and interest thereon, Lawrence County may levy and collect an annual tax on all property situated therein at a rate not in excess of 3 mills. The indebtedness, the bonds and the tax authorized hereby shall be in addition to those authorized prior to the adoption of this amendment. But no such additional indebtedness shall be incurred, no such bonds shall be issued and no such tax shall be levied until the estimated cost of the construction and equipping of said courthouse hereby proposed to be built, its time of completion, and the amount of the increased indebtedness, the rate of interest to be paid thereon, and the period over which the bonds to be issued will be refunded, shall have been determined upon and made public by the County Governing Body of said County; and the proposed increase in indebtedness and the issuance of bonds and the increase in rate of taxation first shall have been authorized by a majority of the qualified electors of said county voting upon such proposal at an election to be called by said county governing body for said purposes to be held not less than sixty (60) nor more than One Hundred Twenty (120) days after the adoption of this amendment. (Yes—, No. —)

Section 3. The officers to hold such election shall be the same as provided for the general election; and the returns shall be canvassed and the proclamation of the result shall be made as is provided by general laws relating to elections on constitutional amendments.

Passed the House of Representatives September 13, 1935

Passed the Senate September 13, 1935.

No. 543)

(H. 505—Street.

### AN ACT

To amend Section 1193 of the Code of Alabama of 1923, as amended by the General Acts of the Legislature of Alabama of 1931, page 542, approved July 17th, 1931.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 1193 of the Code of Alabama of 1923 be amended so as to read as follows: The words "General Hospital" as used in this article shall mean a hospital or sanatorium that maintains a daily average of twenty (20) or more patients and where general medicine, general surgery, dietetics, obstetrics, and the care and nursing of infants and children, and such other subjects as the Board may deem advisable, are practiced and taught. The standing and qualifications of such gen-

eral hospitals shall be subject to the approval or disapproval of the County Board of Censors of the County in which such hospital is located; provided, however, that an appeal can be made from the decision of the County Board of Censors to the State Committee of Public Health which State Committee of Public Health shall hear, consider and determine the questions of the standing and qualifications of such hospital de novo. All students graduating from Schools of Nursing affiliated with General Hospitals, as designated in this Act, and which otherwise maintain reasonable and proper educational standards, which educational standards shall be determined by the Nurses Board of Examination and Registration of Alabama, shall be eligible to take the State Board examinations for nurses. No candidate for a license as a Registered Nurse shall be admitted to take the State Board Examinations, nor licensed as a Registered Nurse who has not graduated from a school of nursing which complies with such rules and standards. Provided, however, that none of the provisions herein contained shall affect any nurse now in training.

Approved September 14, 1935.

No. 544)

(H. 769—Lusk)

### AN ACT

To authorize, provide for and regulate non-profit corporations for the establishment, maintenance and furnishing of a plan of hospitalization and hospital service.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the duly designated representatives of two or more hospitals organized for hospital purposes under the laws of the State of Alabama, or any hospitals engaged in a bona fide hospital business and which shall have been approved by the trustees of the Alabama Hospital Association and the State Board of Censors of the Medical Association of the State of Alabama as properly manned and equipped hospitals to render first class service as herein provided for, may constitute themselves a board of trustees for the purpose of incorporating a non-profit corporation to establish, maintain and operate a hospital service plan under which hospital care is to be furnished to such of the public who become subscribers to such plan under a contract which entitles each subscriber to hospital care.

Section 2. When two or more hospitals have designated representatives to join with each other in the incorporation of such corporation, such representatives acting as trustees shall prepare and file in the office of the Probate Judge of the County in which

said corporation is to have its principal place of business, a certificate of their intention to become such a corporation, which certificate shall be signed by each of said trustees and shall set forth: (a) The name of the proposed corporation. (b) The objects and purposes for which the Corporation is organized. (c) The location of the principal office of the corporation in this State. (d) The names and Post Office addresses of each trustee and the hospital which designated him as a trustee. (e) The certificate may also contain any other provisions which the incorporators may desire to insert for the regulation of the business and affairs of the Corporation, not inconsistent with the provisions of this Act. (f) Attached to the certificate of incorporation must be a certificate signed by the president and secretary of the Alabama State Hospital Association and a certificate signed by the secretary of the State Board of Censors of the Medical Association of the State of Alabama that each of said bodies has approved the hospitals forming said corporation as proper hospitals to render hospital service under the plan herein provided.

Section 3. Upon the filing in the said Probate Office of such a certificate, the trustees therein named and their successors, shall become a body corporate for the purpose of establishing, maintaining and operating the hospital service plan as herein provided. Such certificates of incorporation may be amended at any time for the purpose of taking in or adding to its trustees the representatives of other hospitals provided such other hospitals are approved by the officers and trustees of the Alabama Hospital Association and the State Board of Censors of the Medical Association of Alabama as herein provided. In order to so amend the said certificate of incorporation the trustees of said corporation shall file in said Probate Office a certificate setting forth the names of the added hospitals and the names of the representatives of such hospitals accompanied by the certificates of the approval of said hospitals in like manner as provided or required in the original certificate of incorporation. It shall be the duty of the corporation so organized to furnish the Superintendent of Insurance a copy of its certificate of incorporation and a copy of each amendment thereto immediately after the same is filed.

Section 4. Any hospital doing business in the State of Alabama shall have the right to participate as a member of said corporation provided such hospital shall have been approved in writing as a proper hospital to render the service herein provided by the trustees of the Alabama Hospital Association and the State Board of Censors of the Medical Association of the State of Alabama.

Section 5. Every corporation organized under the provisions of this Act shall procure from the Superintendent of Insurance a

certificate of authority to do business for which the corporation shall pay the sum of Two Hundred Dollars (\$200.00), and such certificates of authority shall be renewed thereafter on or before the first day of March of each year. The corporation may then enter into contracts with the public, subject to the restrictions herein contained, for the rendering of hospital service. It shall be the duty of such corporation to issue certificates to those of the public who shall desire to avail themselves of the hospital service plan herein provided for, which certificates shall specify the hospital service which is proposed to be rendered, and such certificates may provide for more than one class of service, and such certificate shall state the retail value of all items or classes of service agreed to be furnished. Such certificates must also specify the charge or premium which is required to be paid for the services therein called for, and the purchaser of a certificate for Group Hospitalization will not be entitled to any of the benefits and privileges named in his certificate, until a period of sixty days after purchase date has elapsed. Each certificate shall carry a service date covering the full period of time paid for, and shall designate the person or persons, or class of persons, who shall be entitled to hospital service under said certificate and shall also designate the hospitals which are to render the services provided for in said certificate. Said certificate shall stipulate that the service therein provided shall not include any medical or surgical services. It shall also provide that any doctor may be selected by the certificate holder to treat him while a patient in the hospital provided the doctor selected is a reputable doctor and eligible for membership in his County Medical Society. No such corporation shall issue or sell any contract until the same shall have been approved in writing by the Superintendent of Insurance.

Section 6. Any holder in good standing of a certificate for such hospital service may select any hospital named in said certificate to render the necessary hospital service thereunder.

Section 7. The corporation organized under the provisions of this Act shall obtain from the Superintendent of Insurance a certificate of authority for every individual agent writing or soliciting hospital certificates for said corporation and only agents holding such certificates shall be authorized to solicit certificates for said corporation. For each certificate so issued the corporation shall pay to the Superintendent of Insurance the sum of Five (\$5.00) Dollars and such certificate shall be renewable in January of each year. It shall also be the duty of the Corporation organized under the provisions of this Act to file with the Superintendent of Insurance two copies of all certificates which the said corporation proposes to issue or sell in this State.

Section 8. The rates, charges and premiums to be charged the public for the hospital service and for the certificates there-

for, and the certificates and benefits thereunder, herein provided for shall at all times be subject to the approval of the Superintendent of Insurance, and shall be adequate to meet the liability assumed under such contracts and all expenses incurred in connection therewith. The Trustees of the Alabama Hospital Association in conjunction with the State Board of Censors of the Medical Association of the State shall have the right, subject to the approval of the Superintendent of Insurance to prescribe reasonable rules and regulations under and by which all certificate holders can procure the services herein provided for. The Superintendent of Insurance or any of his designated deputies or examiners shall have the power of visitation and examination into the affairs of any such corporation and shall have free access to all books, papers and documents that relate to the business of said corporation and may summon and qualify witnesses under oath, to examine them in relation to the affairs, transactions and conditions of the corporation. Such examination shall be made at the expense of the corporation. The acquisition cost in connection with the solicitation of subscribers to said hospital plan be subject to the approval of the Superintendent of Insurance.

Section 9. Every such corporation shall deposit with and thereafter maintain on deposit with the Treasurer of the State of Alabama bonds of the United States Government or of the State of Alabama, or of any subdivision thereof, or first mortgages on real estate situated in Alabama securing an indebtedness not in excess of fifty (50%) per cent of the appraised value thereof, subject to the approval of the Superintendent of Insurance, in an amount to be determined as of the 1st day of January of each year as follows:—Every such company whose gross annual premium receipts from business done within this state for the preceding year ending December 31st are less than \$50,000. shall so deposit and maintain such securities of par and market value not less than \$5,000.00; every such company whose such gross annual premium receipts so computed are in excess of \$50,000. and less than \$150,000. shall so deposit and maintain such securities of par and market value not less than \$10,000.00; every such company whose such gross annual premium receipts so computed are in excess of \$150,000.00 and less than \$250,000.00 shall so deposit and maintain such securities of par and market value not less than \$15,000.00; every such company whose such gross annual premium receipts so computed shall exceed the sum of \$250,000. shall so deposit and maintain such securities of a par and market value of not less than \$20,000.00; Provided that before any such company shall be licensed to or shall engage in any business in this state it shall so make an initial deposit of such securities of a par and market value not less than \$3,000.00. The securities so deposited may from time to time with the approval of the Superintendent of Insurance and the State

Treasurer be substituted for other authorized securities of equal value. The deposit so maintained shall constitute a trust fund primarily for the security of persons holding certificates or policies of such company.

Section 10. All decisions and findings of the Superintendent of Insurance, State Board of Censors of the Medical Association of the State of Alabama and of the Alabama State Hospital Association made under the provisions of this Act shall be subject to revision by proper proceedings in a court of competent jurisdiction.

Section 11. On or before the 1st day of March of each year every such company transacting business in this state shall file with the Superintendent of Insurance a statement showing the amount of gross premiums received by it for business done in this State during the preceding calendar year ending December 31st, less return premiums, and the number of contracts, certificates or policies outstanding, at which time every such company shall pay to the Superintendent of Insurance one dollar (\$1.00) for each One Hundred (\$100.00) of such gross premiums, less return premiums.

Section 11. (a) All certificates issued must contain a provision to the effect that in the event the holder in good standing, becomes an emergency case in territory other than in the State of Alabama in which he resides and requires hospitalization as an emergency case, the corporation will pay to the hospital in such territory the same sum that it would have paid a hospital selected by the certificate holder and located in the State of Alabama, his residence, had he been treated in such hospital in the State of Alabama.

Section 12. The corporation shall annually on or before the first day of March file in the office of the Superintendent of Insurance a statement verified by at least two of the principal officers of said corporation showing its conditions on the 31st day of December then next preceding, which shall be in such form and shall contain such matters as the Superintendent of Insurance shall prescribe. Every such corporation shall charge as the liability for reinsurance, or reinsurance reserve fund, of all outstanding certificates or policies fifty percent of the premiums or charges received on policies or certificates having not more than one year to run, and on certificates or policies having more than one year to run, such proportion of the total premiums as the unexpired portion of the term bears to the entire term, subject to a minimum of fifty percent of the regular premium for one year. Every such corporation shall at all times hold assets equal to such aggregate amount so computed over and above all other liabilities.

Section 13. This Act shall be liberally construed in order to accomplish the beneficial purposes sought, by making it possible

for persons of limited means to obtain adequate hospital care when the same is required. Should any part of this Act be declared unconstitutional by any Court, such decision shall not affect the remainder thereof.

Section 14. All laws and parts of laws in conflict with this Act are, for the purpose of giving effect to this Act, hereby repealed.

Section 15. This Act shall take effect immediately.

Approved September 14, 1935.

No. 545)

(H. 814—Owen (Etowah)

### AN ACT

To provide and submit to the qualified electors of the State of Alabama, at an election to be held on the first Tuesday next after the expiration of three months from the date of the final adjournment of the present session of the Legislature an amendment to the Constitution of the State of Alabama, continuing the amount of taxes which may be levied by the Governing Body of the municipality of Attalla, Alabama.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the following amendment to the Constitution of Alabama is hereby proposed, and an election by the qualified electors of the State, is hereby authorized upon such proposed amendment and the day appointed for such election is the first Tuesday next after the expiration of three months from the date of the final adjournment of the present session of the Legislature at which this amendment is proposed. The amendment proposed is as follows: (a) That the Municipality of Attalla, Alabama, through its governing body, may levy and collect from and after the date of this amendment the present rate of one per cent ad valorem tax per annum, and said amount to be devoted to the payment of outstanding bonds, provide for schools, and such other purposes as may be designated by the governing body of said municipality, but before any additional tax now authorized by law can be levied, it must be voted by a majority of qualified electors of the Municipality voting on such proposition at an election called by the governing body of said Municipality for such purposes; providing that the total tax levied for all purposes by the said Municipality of Attalla shall not exceed one per centum in any one year on the property situated therein, based on the valuation of such property as assessed for State taxation. (b) That the adoption of this amendment shall in no wise effect, limit, modify, abridge or impair the power, authority or right of such Municipality to levy and collect the special school taxes now or hereafter vested in or conferred upon it under the Constitution or any amendment there-

to. (c) Each election held under the provisions of this amendment shall be ordered, held, canvassed and may be contested in the same manner as is or may be provided by the law applicable to Municipal Corporations, for elections to order the issuance of municipal bonds. The ballots used at such election shall contain the following words: "For authorization of a continuation of taxation at a rate not to exceed one per cent per annum for the purpose of the payment of outstanding bonds, provide for schools, and such other purposes as may be designated by the governing body of said Municipality." "Against authorization of a continuation of taxation at a rate not to exceed one per cent per annum for the purpose of the payment of outstanding bonds, provide for schools, and such other purposes as may be designated by the governing body of said Municipality." The rate of taxation proposed shall be printed upon the ballot in the space indicated therefor and for the year or years in which the proposed rate is to apply, and the purpose or purposes for which said tax is to be used shall likewise be placed in the respective places therefor. The voter shall record his choice either for or against authorization of the proposed rate for the proposed purpose or purposes by placing a cross mark before or after the words expressing his choice. Nothing herein contained shall in any wise change or effect the rights of any holder of bonds of said Municipal Corporations heretofore issued. Elections in said Municipality to order the levy of such tax may be held as often as ordered by the governing body thereof, but when a proposition is submitted to the said municipality hereunder and such proposition is defeated, no second election shall be held in such municipality for one year thereafter. This amendment shall be self-operative without any additional legislation.

Section 2. That notice of the election hereby ordered together with the amendment hereby proposed shall be given by a proclamation of the Governor which shall be published in one newspaper once a week in each county of the State for at least four successive weeks next preceding the day hereby appointed for such election.

Section 3. The expenses of the election herein provided for and the cost of the publication of the notices shall be paid out of the State Treasury in the same manner as the expenses of other elections are paid.

Passed the House of Representatives September 13, 1935.

Passed the Senate September 13, 1935.



## AN ACT

To create a Board to be known as "State Board of Adjustment"; to name its personnel, to define its duties and powers and to authorize said Board to certify its findings to the Comptroller for the payment of its awards, decrees and findings out of the fund herein provided for; to provide the basis of awards and decrees and to make appropriation therefor.

*Be it enacted by the Legislature of Alabama:*

Section 1. There is hereby created a Board to be known as "The State Board of Adjustment" to be composed of the State Treasurer, the Secretary of State and the State Comptroller. The Chairman and Secretary shall be selected by the Board from its membership. The Attorney General shall attend the meetings of the Board and represent the State of Alabama in all proceedings before said Board.

Section 2. The said Board of Adjustment shall have power and it shall be its duty to hear and consider all claims for damages to the persons or property growing out of any injury done to either persons or property by any of the agencies of the State of Alabama; also, to hear and consider any claim for personal injuries or death of any employee of the State of Alabama, or its commissions, boards, agencies or institutions arising out of the course of his employment, or sustained while engaged in the business of the State of Alabama or any of its boards, institutions, agencies or commissions, and also any claim for personal injuries or death of any convict. The jurisdiction here granted shall include claims for past and future injury to persons or property, or death. Said Board of Adjustment is also empowered and it shall be its duty to hear and consider all claims against the State of Alabama arising out of any contract, express, or implied, to which the State or any of its agencies, commissions, boards or institutions are parties, where there is claimed a legal or moral obligation resting on the State to make payment; also claims for money over paid on obligations due the State; and claims for under payment by the State to parties having dealings with the State; also claims for money or property alleged to have wrongfully escheated to the State; also claims for money voluntarily paid to the State where no legal liability existed to make such payment. When claims are properly prepared and presented to the Board, and after ascertaining the facts in the case, the Board is directed to determine the amount of the injury, death or disability, or other injury arising from contract or business, and to fix the damages, using as its guide the ordinary rules of negligence and workmen's compensation laid down by the Courts and the moral obligation of the State of Alabama and to decree and find

the person entitled to payment and the amount, if any, which should be paid, and any other facts necessary for a proper adjustment of claims. Provided that nothing contained in this Act shall confer upon the State Board of Adjustment any jurisdiction now conferred by law upon the State Board of Compromise, and nothing herein contained shall be construed to confer jurisdiction upon the State Board of Adjustment to settle or adjust any matter or claim of which the courts of the State have jurisdiction.

Section 3. The State Board of Adjustment in its findings of facts and its findings and decrees as to the amount of payment may also find the agency or agencies of the State of Alabama which inflicted the injury or damage complained of, if the Board finds there is injury or damage done to persons or property, and may adjudge and find that said damage shall be made out of the appropriation made to the agency or department of the State of Alabama, whose employees, servants, agents or instrumentalities inflicting the damages and injuries complained of. Provided, however, that said Board may order the payment of any claim out of any fund or funds herein appropriated.

Section 4. The Secretary of the State Board of Adjustment shall make a record of and file in the office of the Secretary of State a history of the case, together with the findings and decrees of the State Board of Adjustment and shall deliver to the Comptroller of the State of Alabama a certified copy of the same, and upon receipt of such a copy of the findings of the State Board of Adjustment with the Comptroller, the Comptroller of the State of Alabama is authorized and directed to draw his warrant in favor of the person or persons, association or corporation, found by said State Board of Adjustment to be entitled to the damages in the amount of the damages so certified and shall charge the same to the appropriation as directed in said order or finding.

Section 5. The Treasurer of the State of Alabama is authorized and directed to pay out of any money in the Treasury as directed by such order and as herein appropriated the warrant of the Comptroller issued as provided by Section 4 hereof.

Section 6. The State Board of Adjustment shall have the power, and it shall be its duty, when any claim or claims for damages herein provided for are presented to said Board, to require any employee, Board, Department, Commission, Agency or Institution of the State of Alabama, to furnish any documents or information deemed necessary by the Board and to require the presence of any person or the production of any documents in the same manner as in Circuit Court trials with the same right as the Circuit Courts of this State to punish for contempt. With the approval of the Governor, the Board may employ such necessary clerical or other help in ascertaining the facts incident or

growing out of claims presented to said Board and to make such investigation and to interview such witness as in the opinion of the State Board of Adjustment is essential to ascertain the true facts upon which to base their findings and decree and to fix the compensation of such employees or help as the Board may find necessary in carrying out the purposes of this Act. The employment and amount of compensation of any employee to be approved by the Governor.

Section 7. There is hereby appropriated out of the General Fund in the State Treasury, not otherwise appropriated, such sum or sums as may be necessary to meet the compensation and expenses of such employees of the State Board of Adjustment, payable upon the certificate of the State Board of Adjustment on warrant drawn by the State Comptroller.

Section 8. All the provisions of this Act shall apply to claims for damages to persons or property which have accrued or which are now pending or which may hereafter arise.

Section 9. The Board shall not fix a greater amount to be paid on any claim for death or personal injuries than the limits fixed in the Alabama Workman's Compensation Act for injuries, loss of time, medical attendance or death; provided that convicts shall be considered as receiving the minimum wages mentioned in such Alabama Workman's Compensation Act.

Section 10. There is hereby appropriated out of the general fund of the State of Alabama and the State Insurance Fund, the Confederate Veteran Fund (after payment of all Confederate Pensions) the Convict Fund or the highway fund, or any other fund of the State, to be determined by such Board, a sufficient amount, not exceeding \$200,000.00 for the next fiscal year and not exceeding \$50,000.00 for any subsequent year, as may be necessary to pay the claims ordered by the Board.

Section 11. Said Board may prescribe such forms and adopt such rules of evidence and procedure as it may deem necessary or proper, not inconsistent with this Act. The Board shall be furnished with necessary quarters, stationery and postage as other State officers, boards of commissions are furnished.

Section 12. All laws or parts of laws in conflict with the provisions hereof are hereby expressly repealed.

Section 13. The Act shall take effect immediately upon its passage and approval by the Governor.

Section 14. If any provision of this Act is unconstitutional, it shall not affect the remaining part here. The purpose of the Act is to provide a method of payment to persons for injuries to person or property or for death, where in law, justice or good morals, the claim should be paid. Claims for death shall be made by the personal representative, who shall distribute the proceeds of the

claim in the same manner as is provided by law with respect to damages awarded for death by wrongful act. Whenever the provisions of this Act authorize ascertainment of the amount of damages and provide for payment of the judgment, finding or award of the Board, they shall be construed to include also claims arising from contract or business dealings, as well as for personal injury, property damage, death and disability.

Approved September 14, 1935.

No. 547)

(H. 948—Steele

### AN ACT

To amend Section 2 of an Act of the Legislature of Alabama approved October 28th, 1932, entitled an Act defining contract carriers and common carriers by motor vehicle not subject to the provisions of the Alabama Motor Carrier Act of 1932; to authorize, regulate and govern the transportation for hire of persons and property on public highways by motor vehicles operated by such contract carriers and common carriers; to authorize, regulate and govern the issuance of permits therefor; to regulate and govern the rates and practices of such carriers; to provide for the payment of fees, and for the payment of excise taxes for the use of the public highways by such contract carriers and common carriers, and to provide for the disposition thereof; to enlarge the powers and duties of the Alabama Public Service Commission and Probate Judges of the State with respect to permits issued to and the regulation and control of such carriers, and to provide for the payment of fees to such Probate Judges; to provide for the appointment of resident agents (upon whom service of process may be had) of such contract carriers and common carriers who may be non-residents of the State; to authorize municipalities in this State to prescribe license taxes to be paid by such contract carriers and common carriers; to prescribe and regulate the practice and procedure before the Alabama Public Service Commission with respect to said carriers, and to authorize and prescribe appeals from rulings with respect to such carriers, and to regulate injunctions and like orders respecting the same; and to provide for the enforcement, and to prescribe punishment and penalties for the violation of this Act; and to exempt motor vehicles while being used exclusively for the transportation of school children and school teachers to and from school, or while being used for any school purpose or any public or community purpose at the direction of or by authority of the Superintendent of Education having supervision over the school or schools regularly served by such motor vehicles, from any license tax or registration fee as a contract carrier or common carrier or jitney bus, and to make provision for special license tags to be provided at state expense for such motor vehicles.

*Be it enacted by the Legislature of Alabama:*

Section 1. That Section 2 of the Act of the Legislature of Alabama approved October 28th, 1932 entitled an Act defining contract carriers and common carriers by motor vehicle not subject to the provisions of the Alabama Motor Carrier Act of 1931; to authorize, regulate and govern the transportation for hire of per-

sons and property on public highways by motor vehicles operated by such contract carriers and common carriers; to authorize, regulate and govern the issuance of permits thereof; to regulate and govern the rates and practices of such carriers; to provide for the payment of fees and for the payment of excise taxes for the use of the public highways by such contract carriers and common carriers, and to provide for the disposition thereof; to enlarge the powers and duties of the Alabama Public Service Commission and Probate Judges of the State with respect to permits issued to and the regulation and control of such carriers, and to provide for the payment of fees to such Probate Judges; to provide for the appointment of resident agents (upon whom service of process may be had) of such contract carriers and common carriers who may be non-residents of the State; to authorize municipalities in this State to prescribe license taxes to be paid by such contract carriers and common carriers; to prescribe and regulate the practice and procedure before the Alabama Public Service Commission with respect to said carriers, and to authorize and prescribe appeals from rulings with respect to such carriers, and to regulate injunctions and like orders respecting the same; and to provide for the enforcement and to prescribe punishment and penalties for the violation of this Act, be and the same is hereby amended so as to read as follows:

Section 2. There shall be excepted from the provisions of this Act: 1. Motor vehicles while being used exclusively for the transportation of school children and school teachers to and from school, or while being used for any school purpose or any public or community purpose at the direction of or by authority of the superintendent of education having supervision over the school or schools regularly served by such motor vehicles, and such motor vehicles, while being so used, shall be exempt from any license tax or registration fee required of a contract carrier, a common carrier, or a jitney bus. 2. Motor vehicles for hire while operating within the limits of a City or incorporated town or within the police jurisdiction thereof, or between two cities or incorporated towns whose city limits join or within the police jurisdiction thereof.

Section 3. The State of Alabama shall provide at state expense a special license tag to be used on and to designate all motor vehicles used exclusively for the transportation of school children and school teachers to and from school, or while being used for any school purpose or any public or community purpose at the direction of or by authority of the Superintendent of Education having supervision over the school or schools regularly served by such motor vehicles. These tags shall be supplied annually upon requisition to the State Comptroller by the State Superintendent of Education, this requisition to be based upon applica-

tions for such license tags made by county and city superintendents of education and approved by county and city boards of education, the application made by each superintendent to give the name and address of the operator of the motor vehicle on which the license tag is to be placed and to contain a certification that said motor vehicle will be used for the purposes designated in this act.

Section 4. All laws and parts of laws in conflict herewith are hereby repealed.

Approved September 14, 1935.

No. 548)

(H. 963—Byars.

### AN ACT

To propose an amendment to the Constitution of Alabama permitting certain school districts in Lawrence County, Alabama, to levy and collect for school purposes a tax of three mills in addition to all taxes now authorized. To provide for the submission of the proposed amendment to the qualified electors of the State on the first Tuesday following the expiration of three (3) months after the final adjournment of this session of the Legislature.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the following amendment to the Constitution of Alabama is hereby proposed, to-wit: Enon School District, Hendon School District, Oakville School District, Cave Springs School District, Center School District, Piney Grove School District, Shiloh School District and Speake School District in Lawrence County, Alabama, shall each have the right and power by vote of a majority of the qualified electors of such district at an election held for that purpose to levy and collect for the purpose of, acquiring, constructing or repairing of school buildings in such districts or paying for school buildings already built, a tax of not over three mills in any one year, in addition to all other taxes now authorized by law. The election in such district to determine whether or not such tax shall be levied shall be called, held and, conducted as now provided by law for calling, holding and conducting of election to determine whether or not a three mill district school tax shall be levied and collected.

Section 2. This amendment shall be submitted to the qualified electors of the State on the First Tuesday after the expiration of three (3) months from and after the final adjournment of the present session of the Legislature.

Passed the House of Representatives September 13, 1935.

Passed the Senate September 13, 1935.

## AN ACT

To submit to the qualified voters of the State of Alabama, at an election to be held on the First Tuesday after the expiration of three months, after the final adjournment of the present regular session of the 1935 Legislature, for their consideration, an amendment to the Constitution of Alabama, so as to authorize and empower the Legislature of Alabama, from time to time, by general or local laws to fix, regulate and alter the fees, commissions, allowances and salaries, including the method or basis of their compensation, to be charged or received by Tax Assessors, Tax Collectors, Probate Judges, Circuit Clerks, Sheriffs, and Registers of the Chancery Courts, and provide the method and basis of their compensation, or consolidate any of said offices in each of the following named counties: Calhoun, and Tuscaloosa; and, whereby all Acts of the Regular Session of the Legislature of 1935, heretofore passed and applicable or purporting to be applicable to any or all of said Counties, and fixing or purporting to fix the compensation of said named county officers on a salary basis, are validated and confirmed.

*Be it enacted by the Legislature of Alabama:*

Section 1. That the following amendment to the Constitution of Alabama is hereby proposed to be submitted to the qualified voters of Alabama for their consideration, as hereinafter set forth, viz: "The Legislature of Alabama may hereafter, from time to time, by general or local laws, fix, regulate and alter the fees, commissions, allowances and salaries, including the method or basis of their compensation, to be charged or received by the Tax Assessors, Tax Collectors, Probate Judges, Circuit Clerks, Sheriffs, and Registers of the Chancery Courts, and including the right to place any one or all of said officers on a salary and provide for the fees charged and collected by said officers to be paid into the treasury from which their salaries are paid, and provide the method and basis of their compensation, or consolidate any of said offices in the following named counties: Calhoun and Tuscaloosa. All Acts of the Regular Session of the Legislature 1935 heretofore passed and applicable, or purporting to be applicable, to any or all of said counties, and fixing, or purporting to fix the compensation of said named county officers, on a salary basis, are hereby validated and confirmed."

Section 2. That it shall be the duty of the Governor of Alabama to give notice by proclamation to be published in one newspaper in each County in the State of Alabama at least eight successive weeks next preceding the date of the election on the amendment proposed by this Act to be submitted to the qualified voters of the State of Alabama for their consideration together with the proposed amendment.

Section 3. That, at an election to be held on the First Tuesday after the expiration of three months, after the final adjournment of

the present regular session of the 1935 Legislature, an election shall be held for the vote of the qualified electors of the State of Alabama upon the proposed amendment. Upon the ballots used at such election shall be printed the following, viz: "Shall the following be adopted as an amendment to the Constitution of Alabama? 'The Legislature of Alabama may hereafter, from time to time, by general or local laws, fix, regulate and alter the fees, commissions, allowances and salaries, including the method or basis of their compensation, to be charged or received by the Tax Assessors, Tax Collectors, Probate Judges, Circuit Clerks, Sheriffs, and Registers of the Chancery Courts, and including the right to place any one or all of said officers on a salary and provide for the fees charged and collected by said officers to be paid into the treasury from which his salary is paid, and provide the method and basis of their compensation or consolidate any of said offices in the following named counties: Calhoun and Tuscaloosa. All Acts of the Regular Session of the Legislature of 1935, heretofore passed and applicable, or purporting to be applicable, to any or all of said counties, and fixing, or purporting to fix, the compensation of said named county officers, on a salary basis, are hereby validated and confirmed.' Yes \_\_\_\_\_. No. \_\_\_\_\_." The choice of the elector shall be indicated by a cross-mark by him or her opposite the word expressing his or her desire.

Section 4. The officers of such election shall open a poll for the vote of the qualified electors upon the proposed amendment. The election shall be held in all things in accordance with the law governing general elections. In the election upon the proposed amendment the votes cast thereat shall be canvassed, tabulated and the returns thereof be made to the Secretary of State and counted in the same manner as in elections for Representatives to the Legislature of Alabama, and if it shall thereupon appear that a majority of the qualified electors who voted upon the proposed amendment voted in favor of the same, such amendment shall be valid to all intents and purposes as a part of the Constitution of Alabama. The result of such election shall be made known by the proclamation of the Governor of Alabama.

Passed the House of Representatives September 13, 1935.

Passed the Senate September 13, 1935.



No. 550)

(H. J. R. 463—Lusk.

## HOUSE JOINT RESOLUTION

## HOUSE JOINT RESOLUTION NO. 463.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, THE SENATE CONCURRING:—

WHEREAS, certain proposals have been heretofore submitted to the Legislature to amend the constitution in certain particulars therein named, and

WHEREAS, the Legislature has proposed such amendments to the Constitution by having the same read in each house on three several days, and

WHEREAS, upon the third reading of each of said proposals more than three-fifths of the members of each house voted in favor of each of said proposed amendments, and

WHEREAS, the Governor of the State has called to the attention of the Legislature by a written message that the Legislature in said proposals has ordered elections upon different dates, and has called attention to a clerical omission in reference to numbering some of said proposals, and

WHEREAS, it is in the interest of the State that it be saved from the expenses of several elections on said proposals and that all of such elections be held on the same day and that the suggestion of the Governor be carried out; Now Therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, THE SENATE CONCURRING:

First: That the Legislature does hereby accede and concur with said suggestions of the Governor.

Second: That it does hereby now order and direct that an election be held by the qualified electors of the State upon said amendments as previously proposed by House Bills 408, 499, 814, 963 and 967, and each of them, on the first Tuesday after the expiration of three months from and after the final adjournment of the present session of the Legislature.

Adopted by the House of Representatives September 13, 1935.

Concurred in and Adopted by the Senate September 13, 1935.

## INTEREST LAWS AND STATUTES OF LIMITATION

	Interest Laws.		Statutes of Limitation.		
	Legal Rate.	Rate Allowed by Contract.	Judgments Years	Notes Years	Open Accounts Years
Alabama .....	6	8	20	6	3
Alaska .....	8	10	10	6	6
Arkansas .....	6	10	3-10	5	3
Arizona .....	6	8	5	6	3
California .....	7	<sup>1</sup> 12	5	4	4
Colorado .....	6	<sup>2</sup> 12	6-20	6	6
Connecticut .....	6	12	20	6	6
Delaware .....	6	<sup>3</sup> 6	<sup>4</sup> 10	6	3
District of Columbia .....	6	8	12	3	3
Florida .....	8	10	20	5	3
Georgia .....	7	<sup>5</sup> 8	7	6	4
Hawaii .....	8	12			
Idaho .....	6	8	6	5	4
Illinois .....	5	7	<sup>6</sup> 20	10	5
Indiana .....	6	8	20	10	6
Iowa .....	5	7	20	10	5
Kansas .....	6	10	5	5	3
Kentucky .....	6	6	15	15	5-15
Louisiana .....	5	8	10	5-10	3
Maine .....	6	<sup>7</sup>	20	6-20	6
Maryland .....	6	<sup>6</sup>	<sup>12</sup>	3-12	3
Massachusetts .....	6	<sup>8</sup>	20	6	6
Michigan .....	5	7	10	6	6
Minnesota .....	6	8	10	6	6
Mississippi .....	6	8	7	6	3
Missouri .....	6	8	<sup>10</sup>	10	5
Montana .....	8	10	10	8	5
Nebraska .....	6	9	5-10	5	4
Nevada .....	7	12	6	6	4
New Hampshire .....	6	<sup>9</sup>	20	6	6
New Jersey .....	6	<sup>16</sup>	20	6	6
New Mexico .....	6	12	7	6	4
New York .....	6	6	20	6	6
North Carolina .....	6	6	10	3	3
North Dakota .....	4	7	10	6	6
Ohio .....	6	8	<sup>10</sup> 26	15	6
Oklahoma .....	6	10	5	5	3
Oregon .....	6	10	10	6	6
Pennsylvania .....	6	<sup>11</sup> 6	<sup>12</sup> 20	6	6
Philippine Islands .....	6	<sup>13</sup>	10	10	6
Puerto Rico .....	6	12			

## INTEREST LAWS AND STATUTES OF LIMITATION—Continued.

	Interest Laws.		Statutes of Limitation.		
	Legal Rate.	Rate Allowed by Contract.	Judgments Years	Notes Years	Open Accounts Years
Rhode Island .....	6 <sup>1</sup>	14 <sup>2</sup>	20	6	6
South Carolina .....	6	7	20	6	6
South Dakota .....	6	8	10-20	6	6
Tennessee .....	6	6	10	6	6
Texas .....	6	10	10	4	2
Utah .....	8	12 <sup>3</sup>	8	6	4
Vermont .....	6	6	8	6-14	6
Virginia .....	6	6	10	5	3
Washington .....	6	12	6	6	3
West Virginia .....	6	6	10	10	5
Wisconsin .....	6	10	10-20	6	6
Wyoming .....	7	10	5	10	8

<sup>1</sup>No statute; common law presumption of payment applied.

<sup>2</sup>Any rate.

<sup>3</sup>On collateral demand loans of \$5,000 and over, any rate of interest agreed upon in writing is legal. Corporations cannot plead usury as a defense. Licensed loan brokers may charge 5% per annum above the usual legal rate of 6% upon loans not exceeding \$500 where the amount thereof is to be paid in weekly or monthly installments.

<sup>4</sup>Must be revived every ten years to continue as a lien on real estate.

<sup>5</sup>Under Small Loan Act, as amended 1935 session, interest on loans up to \$300 may be charged at the rate of 1½% per month.

<sup>6</sup>Reference to laws governing revival.

<sup>7</sup>A corporation may agree to pay any rate of interest and may not plead usury. Licensed Loan Brokers may charge 3½% per month on loans up to \$300. Corporations cannot plead usury as a defense.

<sup>8</sup>No limitations on judgments obtained in this state against foreign corporations.

<sup>9</sup>Must be revived every three years to continue as a lien on real estate.

<sup>10</sup>A corporation cannot plead usury. Under small loan act (\$300 minimum) interest rate is 2½% per month.

<sup>11</sup>Becomes dormant five years after rendition of the judgment, or the issuance of the last execution, or the filing of the last certificate of judgment with the Clerk of Courts in any county, whichever date may be later, and may be revived within twenty-one years after becoming dormant.

<sup>12</sup>Licensed Loan Brokers may charge 3½% per month on loans up to \$300. Corporations cannot plead usury as a defense.

<sup>13</sup>Must be revived every five years after entry, to retain lien on real estate.

<sup>14</sup>12% when there is security; 14% when there is no security.

<sup>15</sup>Licenses under Small Loan Act (\$300.00 maximum) 3½% per month, non-licensees 12% per year, otherwise not in excess of 30% including compensation for services or expenses.

<sup>16</sup>Under Small Loans Act (\$300 maximum) interest of 3% a month may be contracted.

## STATE DEPARTMENTS

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*Governor*—Bibb Graves, Montgomery  
*Lieutenant-Governor*—Thos. E. Knight, Jr., Greensboro  
*Secretary of State*—Howell Turner, Camden  
*State Auditor*—Chas. E. McCall, Butler  
*State Treasurer*—John Brandon, Montgomery  
*Attorney General*—A. A. Carmichael, Geneva  
*State Board of Administration*—C. B. Rogers, Birmingham  
*State Comptroller*—Chas. W. Lee, Montgomery  
*Superintendent of Education*—J. A. Keller, Andalusia  
*State Department of Public Welfare*—A. H. Collins, Auburn  
*Commissioner of Insurance and State Fire Marshall Ex-Officio*—Frank N. Julian, Tuscumbia  
*Commissioner of Agriculture and Industries*—R. J. Goode, Gastonburg  
*Public Service Commission*—Hugh White, Gadsden  
*State Commission of Forestry*—Col. Page S. Bunker, Montgomery  
*State Department of Labor*—Robert R. Moore, Birmingham  
*State Tax Commission*—Henry S. Long, Jasper  
*Department of Conservation of Game, Fish and Seafoods*—I. T. Quinn, Hamilton  
*Superintendent of Banks*—J. H. Williams, Guntersville  
*Alabama Highway Director*—Gaston Scott, Montgomery  
*State Highway Patrol*—Walter K. McAdory, Birmingham  
*Department of Archives and History*—Mrs. Marie Bankhead Owen, Montgomery  
*Adjutant General*—Col. John C. Coleman, Guntersville  
 (Wm. A. Gayle, Montgomery, resigned)  
*State Health Officer*—Dr. J. N. Baker, Montgomery  
*State Securities Commission*—A. A. Carmichael, Attorney General  
*Alabama Real Estate Commission*—John D. Chichester, Birmingham  
*Alabama Pension Commission*—Chas. W. Lee, Montgomery  
*State Board of Pardons*—A. A. Carmichael, Attorney General  
*State Service Commissioner*—Geo. W. Cameron, Tuscaloosa  
*Chief Mine Inspector*—W. B. Hillhouse, Birmingham  
*State Geologist*—Walter B. Jones, University  
*State Chemist*—Dr. C. L. Hare, Auburn  
*State Veterinarian*—Dr. I. S. McAdory, Auburn  
*State Docks Commission*—Bibb Graves, Governor, Montgomery  
*State Board of Public Accountancy*—Wm. J. Christian, Birmingham  
*State Board of Pharmacy*—Jno. A. Edwards, Anniston  
*State Board of Optometry*—G. W. Blakey, Dothan  
*State Board for Registration of Architects*—Dr. Frederick Child Biggin, Auburn

- State Board of Education*—Bibb Graves, Chairman, Montgomery  
*Alabama Athletic Commission*—D. Trotter Jones, Montgomery  
*Aviation Commissioner*—Theodore Swann, Birmingham  
*State Pilotage Commission*—A. F. Norquist, Mobile  
*Alabama Oyster Commission*—I. T. Quinn, Montgomery  
*State Milk Control Board*—Powell Baker, Rt. 2, Birmingham  
*Public Works Board of Alabama*—Donald Comer, Birmingham  
*Alabama Highway Corporation*—Gaston Scott, Montgomery  
*Highway Bridge Commission, Inc.*—Chas. E. Carmichael, Tuscumbia  
*State Rural Electrification Authority*—Gordon Persons, Montgomery  
*State Planning Commission*—Algernon Blair, Montgomery  
*State Board of Public Welfare*—Bibb Graves, Montgomery  
*State Armory Commission*—Bibb Graves, Montgomery  
*State Land Commissioner*—Henry S. Long, Jasper  
*The Peoples Public Service Attorney*—W. M. Brunson, Elba  
*State Board of Adjustment*—John Brandon, State Treasurer, Chas. W. Lee, State Comptroller, Howell Turner, Secretary of State  
*Alabama Industrial Authority*—Thos. E. Knight, Jr., Lieutenant-Governor  
*State Toxicologist*—H. M. Nixon, Auburn  
*Board of General Contracting*—Chas. A. Long, Bessemer  
JUDICIAL  
*Supreme Court*—John C. Anderson, Chief Justice, Demopolis  
*Court of Appeals*—Chas. R. Bricken, Presiding Judge, Luverne

# OFFICERS AND MEMBERS OF THE LEGISLATURE OF ALABAMA, 1935

## SENATE OF ALABAMA

### OFFICERS

Thomas E. Knight, Jr., Lieutenant-Governor.....	Greensboro
Senator D. Hardy Riddle, President Pro Tem.....	Talladega
J. E. Speight, Secretary.....	Montgomery
Harrison McCutchen, Asst. Secretary.....	Scottsboro
T. L. Austin, Second Asst. Secretary.....	Wetumpka

### MEMBERS

1st District—L. A. Weaver.....	Rogersville
2nd District—Vernon L. St. John.....	Moulton
3rd District—F. G. Stephens.....	Oneonta
4th District—Shelby S. Fletcher.....	Huntsboro
5th District—I. J. Browder.....	Scottsboro
6th District—W. T. Starnes.....	Pell City
7th District—Maximilian B. Wellborn.....	R. F. D., Piedmont
8th District—D. Hardy Riddle.....	Talladega
9th District—Will O. Walton.....	LaFayette
10th District—W. Carvel Woodall.....	Tallassee
11th District—Hayse Tucker.....	Tuscaloosa
12th District—Walter S. McNeil, deceased	
12th District—Jno. A. Kuykendall, elected Jan. 29, 1935.....	Fayette
13th District—James A. Simpson.....	Birmingham
14th District—John A. Rogers.....	Gainesville
15th District—Earle Thomas.....	Rt. 1, Maplesville
16th District—R. L. Goldsmith.....	Whitehall
17th District—J. L. Kelley.....	Evergreen
18th District—Judson C. Locke.....	Marion
19th District—H. L. Glover.....	Leroy
20th District—O. D. Carlton.....	Thomaston
21st District—G. R. Swift.....	Atmore
22nd District—J. M. Bonner.....	Camden
23rd District—Dr. W. A. Parrish.....	Midland City
24th District—A. M. McDowell.....	Eufaula
25th District—Thomas J. Thrower, deceased	
25th District—W. H. Stoddard, elected Sept. 10, 1935.....	Luverne
26th District—Thomas S. Frazer.....	Union Springs
27th District—Isham J. Dorsey.....	Opelika
28th District—Floyd Mooneyham.....	Montgomery

29th District—Webb Chesnut	Gaylesville
30th District—Edgar P. Russell	Selma
31st District—W. B. Mixon	Hackleburg
32nd District—H. A. Taylor	Greensboro
33rd District—C. M. A. Rogers	Mobile
34th District—Grady W. Cook	Heflin
35th District—D. A. Walden	Headland

## HOUSE OF REPRESENTATIVES, 1935

## OFFICERS

Speaker—R. H. Walker.....	Athens
Clerk—E. F. Taylor.....	Montgomery
Assistant Clerk—Jack A. Dair.....	Mobile
Enrolling and Engrossing Clerk—John A. Dickinson.....	Prattville
Doorkeeper—H. A. Thompson.....	Birmingham
Assistant Doorkeeper—N. E. Stewart.....	Centreville

## MEMBERS

Autauga—H. M. Doster.....	Prattville
Baldwin—A. B. McPhaul.....	Seminole
Barbour—Chauncey Sparks.....	Eufaula
Barbour—C. E. Whigham.....	Blue Springs
Bibb—L. S. Moore.....	Centreville
Blount—Dr. W. C. Miles.....	Oneonta
Bullock—C. D. Norman.....	Union Springs
Bullock—W. J. Lee.....	Union Springs
Butler—Earl M. McGowan.....	Chapman
Butler—J. N. Poole.....	Butler Springs
Calhoun—Albert P. Johnston.....	Jacksonville
Calhoun—Frank Glenn Propst.....	Ohatchee
Chambers—J. W. Hollingsworth.....	LaFayette
Chambers—C. A. Spence.....	LaFayette
Cherokee—Speer Livingston.....	Leesburg
Chilton—C. B. Cox.....	Clanton
Choctaw—P. F. DeVane.....	Service
Clarke—J. R. Wallace.....	Chance
Clarke—A. P. Williams.....	Thomasville
Clay—M. P. Kelly.....	Lineville
Cleburne—E. B. Parker, resigned.....	Heflin
Cleburne—Pelham J. Merrill, elected Dec. 17, 1935.....	Heflin
Coffee—Dr. W. C. Braswell.....	Elba
Colbert—John E. Deloney.....	Tuscumbia
Conecuh—Forrest Castleberry.....	Castleberry
Coosa—J. O. Steele.....	Rockford
Covington—J. E. Hendley.....	Florala
Crenshaw—Walter L. Petrey.....	Petrey
Cullman—M. L. Robertson.....	Cullman
Dale—J. B. Reynolds.....	Ozark
Dallas—R. F. Hamner.....	Selma
Dallas—James A. Hare, Jr.....	Browns
Dallas—George P. Quarles.....	Selma
DeKalb—R. L. Tolbert.....	Fort Payne
Elmore—John W. Bateman.....	Wetumpka



Elmore—J. R. Sanford	Wetumpka
Escambia—J. B. Goolsby	Brewton
Etowah—John A. Lusk, Jr.	Gadsden
Etowah—Evan J. Owen	Gadsden
Fayette—Harry Hodges	Fayette
Franklin—Eugene E. Waldrep	Red Bay
Geneva—C. E. Segrest, deceased	
Geneva—E. C. Boswell, elected Dec. 17, 1935	Geneva
Greene—David M. Hall, Jr.	Eutaw
Hale—J. W. Tidmore	Moundville
Hale—A. M. Tunstall, deceased	
Hale—Hill A. Terry, elected July 23, 1935	Greensboro
Henry—Lester Glover	Abbeville
Henry—J. A. Parish	Headland
Houston—W. Perry Calhoun	Dothan
Jackson—A. D. Kirby	Scottsboro
Jackson—John S. O'Neal	Paint Rock
Jefferson—V. L. Adams	Birmingham
Jefferson—John C. Arnold	Birmingham
Jefferson—John D. Chichester	Birmingham
Jefferson—Eugene (Bull) Connor	Birmingham
Jefferson—Vernon J. Douglass	Birmingham
Jefferson—J. R. Todd	Trussville
Jefferson—W. S. Welch	Bessemer
Lamar—A. U. Hollis	Sulligent
Lauderdale—Geo. Bliss Jones	Florence
Lauderdale—H. L. Reeder	Florence
Lawrence—J. D. L. Byars	Moulton
Lee—William J. Samfordr resigned	
Lee—N. D. Denson, elected Jan. 7, 1935	Opelika
Lee—S. L. Toomer	Auburn
Limestone—R. H. Walker	Athens
Lowndes—M. R. Norman	Fort Deposit
Lowndes—Neil Robinson	Lowndesboro
Macon—Forrest G. Bridges	Notasulga
Madison—C. J. Owens	Huntsville
Madison—Charles E. Shaver	Huntsville
Marengo—J. D. Carter	Linden
Marengo—W. C. Harrison	Gallion
Marion—Dr. R. L. Hill	Winfield
Marshall—John C. Coleman, resigned	Albertville
Marshall—W. C. Rayburn, elected Dec. 17, 1935	Guntersville
Mobile—Wm. V. McDermott	Mobile
Mobile—Alfred L. Staples	Mobile
Mobile—Wm. C. Taylor	Mobile

Monroe—A. C. Lee.....	Monroeville
Montgomery—R. T. Goodwyn, Jr.....	Montgomery
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